



REQUEST FOR QUALIFICATIONS

**2050 METROPOLITAN TRANSPORTATION PLAN
AND
ON-CALL CONSULTING SERVICES FOR CRTPO**

RFQ# 2019-412

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1 REQUEST FOR QUALIFICATIONS (RFQ) INSTRUCTIONS

1.1 Public Notice

The City of Charlotte (City) is soliciting Statements of Qualifications (SOQs) from firms/teams (Firms) to provide (A) consulting services for the 2050 Metropolitan Transportation Plan, and (B) on-call consulting services for the Charlotte Region Transportation Planning Organization. Firms may submit SOQs for either the 2050 Metropolitan Transportation Plan and/or the on-call services. An individual firm may be selected to provide services for one or both projects. The City is seeking firms that are knowledgeable regarding federal regulations in general, and particularly those contained in 23 CFR 450.322; and firms whose combination of experience and expertise will provide timely, professional services to the City. The City reserves the right to enter into one or more contracts with any firm selected under this RFQ process.

Funding for consulting services for the 2050 Metropolitan Transportation Plan is in the \$800,000 range and a contract with a four-year duration is anticipated. Funding for the on-call services will be identified as the need arises and a contract with a five (5) year term is anticipated.

Information related to this solicitation, including any addenda, will be posted to the City's website at <http://epmcontracts.charmeck.org>. For questions related to this solicitation contact:

Mene Roming, Contracts Administrator
City of Charlotte
Department of General Services - City Procurement
531 Spratt Street, Charlotte, NC 28206
Direct Phone: 704-336-4254
Email: mroming@ci.charlotte.nc.us

1.2 Project Overview

The Charlotte Regional Transportation Planning Organization (CRTPO), housed in the Charlotte Planning, Design & Development Department at the City, is a federally-mandated transportation policy board comprised of representatives from local, state, and federal government, transit agencies, and other stakeholders. The CRTPO is responsible for transportation planning and programming in Iredell, Mecklenburg, and Union counties. The CRTPO is also the federally-designated Metropolitan Planning Organization (MPO) for the Charlotte Urbanized Area.

A. 2050 Metropolitan Transportation Plan

The CRTPO's duties include maintaining a Metropolitan Transportation Plan (MTP). The MTP outlines the goals and objectives and addresses transportation-related issues and impacts over a 20-year minimum period for the entire CRTPO planning area. The MTP is updated every four (4) years, allowing the CRTPO to incorporate new data, identify any changes in factors affecting travel demands, and modify policies, programs, or projects based on the most recent information and conditions.

The City plans to contract with one or more firms to provide MTP development services, per USDOT guidelines, and facilitate public involvement. The selected firm(s) will

develop a transportation plan that will include both long-range and short-range strategies/actions that will lead to the development of an integrated multi-modal transportation system that facilitates the safe and efficient movement of people and goods while addressing current and future transportation demand.

A detailed Scope of Work for the MTP Development and Community Engagement services is provided in **Exhibit A – Scope of Work**.

B. On-Call Consulting Services for CRTPO

The CRTPO, in cooperation with the State of North Carolina, develops transportation plans and programs for its planning area comprised of Mecklenburg, Iredell, and Union counties. These plans (1) assist governing bodies and official agencies in determining courses of action and formulating attainable capital improvement programs in anticipation of community needs; and (2) guide private individuals and groups in decision making that can be important factors in the pattern of future development and redevelopment of the area.

The goals of the CRTPO are to:

- Provide, manage, and maintain a safe, efficient, and sustainable transportation system for all modes of travel, intended to serve all segments of the population.
- Encourage walking, bicycling and transit options, integrated with motor vehicle transportation, by providing a transportation system that serves the public with mobility choices.
- Provide a sustainable transportation system that improves the quality of life for residents, promotes healthy living, and is sensitive to significant features of the natural and human environments.
- Promote equitable transportation options for low income and minority neighborhoods, as well as the aging population.
- Encourage regional collaboration and linkages between transportation and land use planning.
- Support economic competitiveness by making investment decisions for transportation modes that make the most efficient use of limited public resources and enhance system performance, as well as by pursuing sustainable funding possibilities.
- Maximize transportation opportunities for the movement of goods.

The City is seeking qualified consulting firms to assist the CRTPO, on an as-needed basis and consistent with the CRTPO's goals and objectives, with various consulting, planning, or analysis services. Firms selected for these services may receive multiple task orders or none at all. Services may include, but are not limited to, the following:

- Engineering and planning related to thoroughfare projects.
- Multi-modal engineering and planning.
- Assistance implementing, updating, and maintaining the Comprehensive Transportation Plan.

- Modifications to existing planning processes, such as the Unified Planning Work Program (UPWP), Transportation Improvement Program (TIP), Metropolitan Transportation Plan (MTP), performance-based planning, and discretionary projects.
- Transportation studies, including but not limited to, corridor and sub-area studies, traffic simulation, traffic analysis, project planning, and environmental analysis and design.
- Incorporating performance targets and milestones into planning recommendations.
- Providing project management functions.
- Financing and funding, and
- Public involvement activities, including but not limited to, assisting with outreach activities, website improvements, public outreach document preparation, visualization, and graphics.

1.3 RFQ Schedule of Events and SOQ Submission

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

Advertisement of RFQ:	August 9, 2019
Pre-Submittal Meeting:	August 21, 2019 at 11 AM Charlotte-Mecklenburg Government Center 600 E. 4 th Street, Room CH-14 (Basement) Charlotte, NC 28202
Deadline for Questions:	September 2, 2019
DUE DATE & TIME FOR PROPOSALS:	September 12, 2019 at 1 PM
Evaluation Meeting:	October 1, 2019
Interviews:	October 21, 2019
Selection Announcement:	October 28, 2019

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

SOQs shall be enclosed in a sealed envelope or package, addressed to the City of Charlotte. The name and address of the firm, the RFQ number and RFQ Title, shall be placed on the outside of the package. All items required for a responsive SOQ shall be included. It is the sole responsibility of the firm to ensure that the SOQ package is received no later than the established due date and time at the proper location. SOQs received after the due date and time will not be considered. SOQs submitted by facsimile or other electronic means will not be accepted.

Submit/Deliver to: City of Charlotte
 Department of General Services - City Procurement
 531 Spratt Street
 Charlotte, NC 28206
 Attn: **Mene Roming**, Contracts Administrator

1.4 Evaluation Criteria and Process

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

- Firm must be properly registered with the Office of the Secretary of State of North Carolina (if applicable); and
- Firm must be licensed by the North Carolina Board of Examiners for Engineers & Surveyors.

Evaluation criteria are listed below in descending order of importance for each project:

A. 2050 Metropolitan Transportation Plan

- Qualifications and recent relevant experience of firm and key team members in providing similar services for similar MTP document development projects;
- Project understanding, methodology and approach; and
- Qualifications and experience of firm and key team members in providing similar services for projects requiring public engagement-related tasks.

B. On-Call Consulting Services for CRTPO

- Qualifications and recent relevant experience of firm and key team members in providing similar services for similar projects;
- Demonstrated experience providing services to Metropolitan Planning Organizations (MPOs);
- Demonstrated experience with North Carolina's Strategic Transportation Initiative legislation;
- Demonstrated experience with North Carolina Department of Transportation (NCDOT) planning and funding processes; and
- Availability of key staff.

The City will appoint an evaluation committee for each project whose responsibilities will include performing technical evaluations of each SOQ and making selection recommendations based on the evaluation criteria provided above. Evaluations will focus on identifying the relative strengths, weaknesses, deficiencies, and risks associated with each SOQ. Informal interviews are anticipated for the 2050 MTP, but may be waived at the discretion of the evaluation committee. Interviews are not anticipated for the on-call consulting services. The City reserves the right to obtain clarification or additional information from any firm regarding its SOQ.

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

1.5 SOQ Format

Consultants may submit their qualifications for (A) 2050 Metropolitan Transportation Plan, and/or (B) on-call consulting services for the CRTPO. A separate SOQ package should be submitted for each project and clearly labeled to indicate Project A or B.

Each SOQ package should consist of a cover letter, responses to the specific inquiries in Section 1.6 below, and a set of completed Forms 1 through 5, and Forms D-1 and D-2. For each Project A and B, consultants must submit one (1) bound original and eight (8) bound copies of the SOQ packages, including all required forms and one (1) CD or flash drive containing a digital copy of the complete SOQ package in PDF format. If a consultant chooses to submit for both projects, that would be eight (8) SOQ packages for each project or a total of 16 packages altogether. Electronic copies for Projects A and B may be combined on one CD or flash drive.

SOQs are limited to a maximum of 20 numbered, printed pages (10 pages printed double-sided, 20 pages printed single-sided, or a combination not exceeding 20 pages of print) for each project (i.e., a maximum of 40 pages if submitting for both projects), excluding the cover letter, required forms, resumes, covers, sub-tabs and dividers. SOQs should be printed on 8-1/2" x 11" paper; however, pages with organizational charts, matrices, or diagrams may be printed on larger sheets. Type size should be no smaller than 11 points for narrative sections, but may be reduced for captions, footnotes, etc., while maintaining legibility. Cover letters, required forms, resumes, covers, sub-tabs and dividers do not count toward the page limit. Non-conforming submissions may be removed from consideration at the sole discretion of the City. Please submit packages comprised of materials that are easily recyclable or reusable at the conclusion of the evaluation process.

1.6 SOQ Content

SOQ packages shall be arranged as follows:

1.6.1 Project A – 2050 Metropolitan Transportation Plan

Cover Letter: General Information

- A. Clearly indicate that the SOQ involves Project A and briefly describe your interest in the Project and the unique advantage your firm brings.
- B. State any conflicts of interest your firm or any key team member may have with this Project.
- C. Identify and describe any pending claims, disputes, and/or litigation and any that occurred within the past five (5) years involving your firm or any of your proposed subconsultants. With respect to resolved matters, describe the outcome.
- D. Provide a description of the company that will enter into the contract(s) with the City, including origin, background, current size, financial capacity, available resources, general organization, and company headquarters. Identify the name and title of the person authorized to enter into the contract(s) with the City. Provide a copy of the registration with the North Carolina Secretary of State and the applicable licensing board.
- E. List exceptions to the City's standard contract terms and conditions. A sample contract is attached as Exhibit B – Sample Contract.

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

- A. List a maximum of three (3) recent, relevant, similar projects, either currently in progress or having been completed in the past ten (10) years, for a MPO containing work comparable to this specific Project, including any projects with the City, as follows:
- List only projects involving the key team members or subcontractors proposed for this Project.
 - List projects in date order with newest projects listed first and include the following:
 - Brief project description;
 - Owner’s representative having knowledge of the firm’s work, include the contact name, phone, email, address;
 - Contract dollar amount and total time period involved; and
 - Discuss the methods, approach and controls used on the project in order to complete it in an effective, timely, economical and professional manner.
- B. Provide an organization chart of all key team members who will be directly involved in providing services, including any subcontractors, to be assigned specifically to this project. Identify the Project Manager who will be empowered to make decisions for and act on behalf of the firm. Identify any member of the team that is certified as a Small Professional Services Firm (SPSF) with NCDOT.
- C. Discuss your firm’s/team’s qualifications and previous experience on similar or related projects, specifically with projects requiring public engagement-related tasks.
- D. Describe any previous collaboration(s) between key team members, the responsibilities of each team member during these collaborations, and the project(s) outcome. Cite any significant achievements reached as a result of this collaboration. Discuss the successes of the team collaboration, and any problems encountered and methods used to mitigate issues and resolve conflicts.
- E. State the most recent date that your firm and each of your subconsultants, as applicable, submitted or updated PREQUAL-1 with NCDOT.
- F. Resumes may be submitted for each proposed key team member. Resumes will not be counted towards the page limit.

Tab 2: Project Understanding, Methodology and Approach

- A. Discuss the firm’s understanding of the Project objectives and describe the proposed project approach to deliver the Services in an effective, timely and professional manner. Outline the project plans, structure and services to be provided and how and when these services shall be provided. This description should fully and completely

demonstrate the proposer's intended methods for servicing the requirements of all aspects of the Project set forth herein.

- B. Demonstrate the firm's understanding of the roles and responsibilities of the CRTPO, and knowledge of the functions of the CRTPO.
- C. Describe collaboration techniques for working with the CRTPO to develop an MTP.
- D. Describe any support the firm will need from the City, CRTPO, NCDOT or other staff.
- E. Describe the firm's project management and quality control procedures, processes for performance, and past involvement in projects of similar nature.
- F. Discuss the firm's management and quality control procedures related to subconsultants.

Tab 3: Qualifications and Experience of Firm and Key Team Members in Providing Similar Services for Projects Requiring Public Engagement-Related Tasks

List a maximum of three (3) relevant projects involving public engagement-related tasks, either currently in progress or having been completed in the past five (5) years for any public entity, containing work comparable to this specific Project, including any projects with the City, as follows:

- List only projects involving the key team members or subcontractors proposed for this Project.
- List projects in date order with newest projects listed first and include the following:
 - Brief project description;
 - Owner's representative having knowledge of the firm's work, include the contact name, phone, email, address;
 - Contract dollar amount and total time period involved; and
 - Discuss the methods, approach and controls used on the project in order to complete it in an effective, timely, economical and professional manner.

Tab 4: Small Professional Services Firms (SPSF)

List SPSF firms included on your team and their anticipated role in providing the services.

Tab 5: Required Forms

Forms 1 thru 5 and Forms D-1 and D-2 provided with this RFQ shall be completed and submitted with the SOQ. Required Forms will not be counted towards the page limit.

1.6.2 Project B – On-Call Consulting Services for CRTPO

Cover Letter: General Information

- A. Clearly indicate that the SOQ involves Project B and briefly describe your interest in the Project and the unique advantage your firm brings.
- B. State any conflicts of interest your firm or any key team member may have with this Project.
- C. Identify and describe any pending claims, disputes, and/or litigation and any that occurred within the past five (5) years involving your firm or any of your proposed subconsultants. With respect to resolved matters, describe the outcome.
- D. Provide a description of the company that will enter into the contract(s) with the City, including origin, background, current size, financial capacity, available resources, general organization, and company headquarters. Identify the name and title of the person authorized to enter into the contract(s) with the City. Provide a copy of the registration with the North Carolina Secretary of State and the applicable licensing board.
- E. List exceptions to the City’s standard contract terms and conditions. A sample contract is attached as Exhibit B – Sample Contract.

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

List a maximum of five (5) recent, relevant, similar projects, either currently in progress or having been completed in the past five (5) years, for a MPO containing work comparable to this specific Project, including any projects with the City, as follows:

- List only projects involving the key team members or subcontractors proposed for this Project.
 - List projects in date order with newest projects listed first and include the following:
 - Brief project description;
 - Owner’s representative having knowledge of the firm’s work, include the contact name, phone, email, address;
 - Contract dollar amount and total time period involved; and
 - Discuss the methods, approach and controls used on the project in order to complete it in an effective, timely, economical and professional manner.
- B. Provide an organization chart of all key team members who will be directly involved in providing services, including any subcontractors, to be assigned specifically to this project. Identify the Project Manager who will be empowered to make decisions for and act on behalf of the firm. Identify any member of the team that is certified as a Small Professional Services Firm (SPSF) with NCDOT.

- C. Discuss your firm's/team's qualifications and previous experience on similar or related projects.
- D. Describe any previous collaboration(s) between key team members, the responsibilities of each team member during these collaborations, and the project(s) outcome. Cite any significant achievements reached as a result of this collaboration. Discuss the successes of the team collaboration, and any problems encountered and methods used to mitigate issues and resolve conflicts.
- E. State the most recent date that your firm and each of your subconsultants, as applicable, submitted or updated PREQUAL-1 with NCDOT.
- F. Resumes may be submitted for each proposed key team member. Resumes will not be counted towards the page limit.

Tab 2: Demonstrated Experience Providing Services to Metropolitan Planning Organizations (MPOs)

Discuss your firm's/team's qualifications and previous experience providing services to MPOs, including on an as-needed basis.

Tab 3: Demonstrated experience with North Carolina's Strategic Transportation Initiative Legislation

- A. Describe any recent consulting/advisory work that involved North Carolina's Strategic Transportation Initiative.
- B. For each project listed, include a brief description; the date the services were performed; the name, address and phone number of the client representative having knowledge of the firm's work; the dollar amount; and total time period involved.
- C. Describe how the firm's advisory role/contributions using the North Carolina Strategic Transportation Initiative legislative directly affected the outcome of the project listed as a reference within this section.

Tab 4: Demonstrated experience with NCDOT Planning and Funding Processes

List any projects, currently in process or performed within the past two (2) years, containing work that involved using NCDOT's planning and funding processes, as follows:

- List only projects involving current staff of the proposed prime consultant and any proposed subconsultants
- List projects in date order with newest projects listed first
- List a maximum of 3 relevant projects

- For each project listed, include a brief description; the date the services were performed; the name, address and phone number of the client representative having knowledge of the firm's work; the dollar amount; and total time period involved.

Tab 5: Availability of the Firm and Key Team Members for This Project

- A. Discuss your team's plan to respond to urgent requests and provide a physical presence of key staff at the project site within 48 hours.
- B. Discuss your team's response to the loss of a key staff member. Who in your organization possesses adequate skills to assume work responsibilities related to this project in the event of the loss of key staff?

Tab 6: Small Professional Services Firms (SPSF)

List SPSF firms included on your team and their anticipated role in providing the services.

Tab 7: Required Forms

Forms 1 thru 5 and Forms D-1 and D-2 provided with this RFQ shall be completed and submitted with the SOQ. Required Forms will not be counted towards the page limit.

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2 REPRESENTATIONS, CONDITIONS, AND OTHER REQUIREMENTS

2.1 Communications

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

2.2 Duties and Obligations of Firms in the RFQ Process

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

2.3 Addenda

In order to clarify or modify any part of this RFQ, addenda may be issued and posted at the City’s official website at <http://epmcontracts.charmeck.org>. Any requests for additional information or clarifications should be submitted in writing to the Contracts Administrator listed in Section 1.1 by the “Deadline for Questions” stated in **Section 1.3 – RFQ Schedule of Events**.

2.4 No Collusion, Bribery, Lobbying or Conflict of Interest

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

2.5 Public Records

Upon receipt by the City, each SOQ becomes the property of the City and is considered a public record except for material that qualifies as “Trade Secret” information under North Carolina General Statute 66-152 et seq. SOQs will be reviewed by the City’s evaluation committee, as well as other City staff and members of the general public who submit public record requests after a selection result has been announced to the public. To properly designate material as a trade secret under these circumstances, each firm must take the following precautions: (a) any trade secrets submitted by the firm 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 SOQ,” 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 an SOQ, each firm agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the evaluation process and to any outside consultant or other third parties who serve on the evaluation committee or who are hired by the City to assist in the evaluation process. Furthermore, each firm agrees to indemnify and hold harmless the City and each of its officers, employees and agents from all costs, damages and expenses incurred in connection with refusing to disclose any material that the firm has designated as a trade secret. Any firm that designates its entire SOQ as a trade secret may be disqualified from consideration.

2.6 Cost of SOQ Preparation

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

2.7 Advertising

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

2.8 Vendor Registration with City of Charlotte

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

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

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

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

2.10 Financial Capacity; Insurance Requirements

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

2.11 Ownership of Work Products

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

2.12 City Rights and Reservations

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

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

2.13 Contract

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

2.14 Equal Opportunity

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

2.15 E-Verify Certification

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

2.16 Familiarity and Compliance with Laws and Ordinances

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

2.17 Insurance Requirements

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

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

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

The City shall be named as additional insured under the commercial general liability insurance for operations and services rendered under a contract. At the time of execution of the contract, certificates of all required insurance shall be furnished to the City and shall contain the provision

that the City will be given thirty (30) day written notice of any intent to amend or terminate by either the insured or the insuring company.

2.18 Background Checks

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

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

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

2.20 Protest Procedures

Any protest or objection to this RFQ, including the procurement procedure or award of the contract, shall be submitted in a timely manner to the Contracts Administrator identified in Section 1.1 and will be reviewed in accordance with applicable City policies and procedures.

An interested party, as defined in the section below, may file a protest regarding the solicitation, evaluation, or award of a contract in accordance with the procedures set forth herein. Protests must be submitted in writing.

For the purposes of this procedure, "interested parties" shall be defined as follows:

- With respect to complaints concerning the terms, conditions, or form of a proposed procurement action, any prospective proposer whose direct economic interest would be affected by the award, or failure to award, a contract.
- With respect to complaints concerning award decisions, the City deems the protest meritorious only for those actual proposers who have submitted a proposal in response to this solicitation and who would be eligible for selection as the successful proposer for the award of the contract.

In order for a protest to be considered, the written protest shall contain the following elements, at a minimum:

- a. Name and address of the protestor and name of the project
- b. The relationship of the protestor to the procurement, sufficient to establish that the protest is being filed by an interested party as defined herein
- c. The specific act or omission being protested
- d. The basis for the protest
- e. Any and all documentation supporting the allegations in the protest
- f. A statement regarding the specific relief requested

If the protest fails to comply with any of the preceding requirements, the City reserves the right to refuse to consider the protest and return the protest to the protestor.

All protests must adhere to the following deadlines:

- Pre-Submittal: Protest concerning the terms, conditions, or proposed form of procurement action must be submitted at least five (5) working days prior to the date established for the receipt of submittals.
- Pre-Award: Protests concerning a recommendation for award, on any ground not based upon the content of the submittal, must be filed with the Contracts Administrator within five (5) working days after the City releases selection results. The City reserves the right to award a contract during protest.
- Post-Award: Protests concerning award decisions, on any ground not based upon the content of the submittal, must be filed with the Contracts Administrator within five (5) working days after such aggrieved person knows, or should have known, of the grounds of the protest.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

3 North Carolina Department of Transportation and Federal Contracting Requirements

The work to be performed under this RFQ will be financed in whole or in part with federal funding administered by the North Carolina Department of Transportation (NCDOT). As such, state and federal laws, regulations, policies, and related administrative practices apply to this RFQ and any resulting contract. The most recent of such federal requirements, including any amendments made after the release of this RFQ shall govern this RFQ, unless the federal government determines otherwise. This Section identifies the state and federal requirements that may be applicable to this RFQ and any resulting contract. The successful firm awarded the contract is responsible for complying with all applicable provisions.

3.1 Government-Wide Debarment and Suspension (Non-Procurement)

The Consultant is required to verify that neither it, nor its principals (as defined at 49 CFR 29.995) or affiliates (as defined at 49 CFR 29.905) is excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Consultant is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction in which it enters. By signing and submitting its SOQ, the Consultant certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3.2 No Lobbying

The Consultant certifies that it has not and will not pay any person or organization to influence or attempt to influence an officer or employee of the City, the State of North Carolina, any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a contract under this RFQ. In addition, in the event that a single contract awarded under this RFQ exceeds \$100,000, the consultant must fully comply with the requirements of Title 40 CFR Part 34, New Restrictions on Lobbying, and submit required certification and disclosure forms accordingly.

3.3 Compliance with Anti-Discrimination and Equal Opportunity Laws and Regulations

Consultants must comply with all applicable anti-discrimination and equal opportunity statutes, regulations, and Executive Orders.

3.4 NCDOT Prequalification Requirements

The primary and/or subconsultant firms(s) shall be pre-qualified, as applicable, by NCDOT to perform the required services. Information about the prequalification process can be accessed at <http://www.ncdot.org/business/ocs/pef/>.

3.5 Record Retention

The Consultant certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The Consultant further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three (3) years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

3.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

The Consultant certifies that:

- 3.6.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
- 3.6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
- 3.6.3. The Consultant shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 3.6.4. The Consultant's completed Byrd Anti-Lobbying Certification is incorporated herein as Form 4.

3.7 DHS Seal, Logo, and Flags

The Consultant shall not use the Department of Homeland Security (“DHS”) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

3.8 Small Professional Service Firms

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

The Consultant, at the time the qualification package is submitted, shall submit a listing of all known SPSF firms that will participate in the performance of the identified work. The participation shall be submitted on Form D-1 (Prime Consultant – SPSF) and Form D-2 (Subconsultant – SPSF). The SPSF must be qualified with NCDOT to perform the work for which they are listed. Both forms must be completed for your proposal package to be complete.

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

3.9 Accounting System; Invoicing

The Consultant must have an adequate accounting system to identify costs chargeable to the Project.

3.10 Method of Payment

The City plans to award a firm, fixed price contract to the selected firm to perform the Services related to the Metropolitan Transportation Plan; and a cost plus fixed fee contract for on-call services.

3.11 Federal Acquisition Regulations (FAR) and Federal Highway Administration (FHWA) Requirements

Any contract resulting from this solicitation will incorporate all applicable FAR and FHWA clauses. Specifically, the Consultant will agree to comply with all FAR and FHWA requirements and guidelines, whether they are mentioned in the contract or not.

Form 1 – Execution of SOQ

Metropolitan Transportation Plan and On-Call Services for CRTPO

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

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

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

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

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

Company Legal Name: _____

Mailing Address: _____

City/State/Zip: _____

Phone: _____ Email: _____

Printed Name: _____ Title: _____

Signature: _____ Date: _____

WE WISH TO BE CONSIDERED FOR (Check all that apply):	
A. Metropolitan Transportation Plan	<input type="checkbox"/>
B. CRTPO On-Call Services	<input type="checkbox"/>

Form 2 – Commercial Non-Discrimination Certification

Project Name: Metropolitan Transportation Plan and On-Call Services for CRTPO
Consultant's Name: _____

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

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

By: _____
SIGNATURE OF AUTHORIZED OFFICIAL

Title: _____

Form 3 – Vendor Debarment Certification

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

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

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

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

I hereby certify as stated above:

(Print Name)

Signature

Title

Date

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

(Print Name)

Signature

Title

Date

Form 4 – Byrd Anti-Lobbying Certification

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

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

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

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

(Print Name)

Company Name

Authorized Signature

Address

Date

City/State/Zip

Form 5 – Key Team Member Matrix

(Attach additional sheets as necessary)

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

KEY TEAM MEMBERS	Key Team Member 1	Key Team Member 2	Key Team Member 3
<i>Expertise – Indicate Number of Years of Experience / Number of Projects Completed</i>			
Development of Congestion Management Processes			
Preparing cost estimates for freeway mainline or interchange projects			
Refinement or Management of CMPs			
Experience with MPOs and metropolitan planning regulations			
Working with multi-jurisdictional teams			
Analyzing operational ITS improvements			
Multi-modal corridor system improvements			
Evaluation of non-SOV alternatives (all options except adding lanes)			
Development of Performance Measures			
Application of Performance-Based Planning			
Other areas of expertise – List:			

Form D-1 - Prime Consultant Small Professional Service Firm Certification

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

Instructions for Completing Form D-1:

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

Form D-2 – Subconsultant Small Professional Service Firm Certification

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

Instructions for completing the Form D-2:

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

Exhibit A – Scope of Work

2050 Metropolitan Transportation Plan Update

The selected firm will develop a transportation plan that will include both long-range and short-range strategies/actions that will lead to the development of an integrated multimodal transportation system that facilitates the safe and efficient movement of people and goods while addressing current and future transportation demand.

Work will include, but is not necessarily limited to, the following:

- Overseeing the production and formatting of all components and contents of the 2050 MTP;
- Delivering the final plan document prior to the March 2022 meeting of the Metropolitan Planning Organization;
- Ensuring that the MTP complies with all federal regulations, including, but not limited to the implementation of Performance Measure targets as identified within the FAST Act;
- Reviewing the financial outcomes from NCODT's Prioritization process, and suggesting modifications to the CRTPO's roadway ranking criteria based upon changes made prior to Prioritization 6.0.
- Continuing to build on planning efforts associated with CONNECT Our Future.
- Expanding upon scenario planning activities, utilizing CommunityViz software, begun during the development of the 2045 MTP.
- Compiling, organizing, authoring, editing, evaluating and preparing all materials for the MTP (e.g., chapter content, maps, appendices, graphics, tables, stand-alone Executive Summary, and other accompanying documentation);
- Coordinating and facilitating an innovative public engagement approach for the 2050 MTP;
- Ensuring that the final MTP document and Executive Summary are available in a website friendly and ADA compliant format, compatible for posting on the CRTPO's website;
- Attending MTP Steering Committee, MTP Advisory Committee, Technical Coordinating Committee, and CRTPO board meetings, as required.
- Coordinating the project submittal and prioritization process by using online GIS webmaps and automated webpages where feasible.
- Managing the MTP Advisory Committee.

Exhibit B – Sample Contract

The Sample Contract contains standard City terms and conditions. The final contract negotiated with the selected consultant(s) will incorporate specific details applicable to each project and any additional state and federal requirements.

CONTRACT NUMBER: 2020xxx

AWARD DATE: _____

EXPIRATION DATE: 12/31/2024



MASTER AGREEMENT FOR PROFESSIONAL SERVICES

SERVICES:

On-Call Consulting Services for CRTPO

OWNER:

City of Charlotte

CONSULTANT:

This **MASTER 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, hereinafter referred to as the “Consultant.”

GENERAL RECITALS

WHEREAS, the City advertised Request for Qualifications RFQ 2019-412 – 2050 Metropolitan Transportation Plan and On-Call Consulting Services for CRTPO, dated August 9, 2019;

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

WHEREAS, the City desires to engage the Consultant, as needed, to provide consulting services as outlined hereinafter upon the terms and conditions as set out herein;

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

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

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

AGREEMENT

1 INCORPORATION OF EXHIBITS

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

- EXHIBIT A: Scope of Work
- EXHIBIT B: Project Schedule
- EXHIBIT C: Unit Costs
- EXHIBIT D: Key Personnel
- EXHIBIT E: Small Professional Services Firms (SPSF) Program Requirements
- EXHIBIT F: Commercial Non-Discrimination Certification
- EXHIBIT G: Byrd Anti-Lobbying Certification
- EXHIBIT H: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions
- EXHIBIT I: Certificate of Insurance
- EXHIBIT J: Task Order

2 DEFINITIONS

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

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

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

CITY refers to the City of Charlotte, North Carolina.

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

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

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

DEPARTMENT refers to a department within the City of Charlotte.

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

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

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

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

3 DESCRIPTION OF SERVICES

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

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

The Consultant will comply with the schedule set forth in each Task Order issued during the Agreement Period. All references to days in this Agreement (including the exhibits) shall refer to calendar days rather than business days, unless a provision specifically uses the term "business days." Any references to "business days" shall mean the days that the City's offices are open for the public to transact business.

4 COMPENSATION

4.1 FEES AND CHARGES

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

The Consultant may request adjustments of hourly rates and unit prices at annual intervals. The City reserves the sole right to approve or reject requests for adjustments. Any rate adjustment(s) will be issued by the City in writing.

4.2 REIMBURSABLE EXPENSES

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

Travel

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

Communications

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

Permitting Fees

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

Reprographics, Renderings, and Models

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

4.3 **INVOICES**

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

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

OPTION 1:

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

OR

OPTION 2:

The Consultant shall mail all invoices to:
City of Charlotte AP
Attn: Engineering & Property Management
P.O. Box 37979
Charlotte, NC 28237-7979

Each invoice must contain the following information:

Purchase Order Number: Individually assigned
Agreement Number: 2020xxx
City Contact Name: Agustin Rodriguez

City Contact Department: Charlotte Planning, Design & Development

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

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

4.4 PRE-CONTRACT COSTS

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

4.5 COST OVERRUNS

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

4.6 ACCOUNTING AND AUDITING

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

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

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

4.7 *WITHHOLDING OF PAYMENTS*

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

4.8 *PAYMENT AFFIDAVITS*

To determine whether disparities exist in City contracting based on race, gender or other factors, and also to measure the effectiveness of the City's Charlotte Business INclusion ("CBI") Program, the City tracks the utilization of subcontractors and suppliers on certain 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 Consultant 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 Consultant to 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 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 Consultant (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 Charlotte Business INclusion Program. In order to have a properly completed Payment Affidavit, each subcontractor identified must be registered in the City's Vendor Registration System. The City may request on a case-by-case basis that the Consultant require certain suppliers to be registered in the City's Vendor Registration System, and may withhold payment of any amounts due the Consultant in the event the Consultant fails to comply with such request.

4.9 *PROMPT PAYMENT TO SUBCONTRACTORS*

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

4.10 *NON-APPROPRIATION OF FUNDS*

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

4.11 *PRE-AUDIT CERTIFICATE*

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

5 **CONTRACT PERIOD**

This Agreement shall commence on the Effective Date and shall continue in full force until **December 31, 2024**. Any unexpended funds remaining in Task Orders at the end of the Contract term shall be liquidated.

6 **CONSULTANT'S RESPONSIBILITIES**

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

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

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

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

8 POINTS OF CONTACT; NOTIFICATIONS

8.1 CITY PROJECT MANAGER

The duties of the City Project Manager include:

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

The City Project Manager is:

Agustin Rodriguez
Planning Coordinator
City of Charlotte
Charlotte Planning, Design & Development
600 E. 4th Street
Charlotte, NC 28202
980-214-7852
augustin.rodriquez@ci.charlotte.nc.us

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

8.2 CONSULTANT PROJECT MANAGER

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

- a. Coordinating Project schedules and the Consultant's resource assignment based upon the City's requirements and schedule constraints;
- b. Managing the overall Project by monitoring and reporting on the status of the Project and on actual versus projected progress, and by consulting with the City Project Manager when deviations occur and by documenting all such deviations in accordance with agreed upon change control procedures;
- c. Providing consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Consultant's specialist resources that may be needed to supplement the Consultant's normal implementation staff;
- d. Acting as the Consultant's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;

- e. Facilitating review meetings and conferences between the City and the Consultant's staff when scheduled or requested by the City;
- f. Communicating among and between the City and the Consultant's staff;
- g. Promptly responding to the City's Project Manager when consulted in writing or by email with respect to Project deviations and necessary documentation;
- h. Identifying and providing the City with timely written notice of all issues that may threaten the Consultant's Services in the manner contemplated by the Agreement (with "timely" meaning immediately after the Consultant becomes aware of them);
- i. Ensuring that adequate quality assurance procedures are in place throughout the Project; and
- j. Meeting with other entities working on City projects that relate to this effort as necessary to resolve problems and coordinating the Services.

The Consultant Project Manager is:

[REDACTED]

8.3 NOTICES AND PRINCIPAL CONTACTS

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

For the City:

Robert W. Cook, AICP
Assistant Planning Director
City of Charlotte
Charlotte Planning, Design & Development/CRTPO
600 E. 4th Street
Charlotte, NC 28202
704-336-8643
rwcook@ci.charlotte.nc.us

For the Consultant:

[REDACTED]

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

9 REMOVAL, REPLACEMENT AND PROMOTION OF CONSULTANT PERSONNEL

The City will have the right to require the removal and replacement of any personnel of the Consultant or the Consultant's subcontractors who are assigned to perform Services for the City. The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Consultant.

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

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

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

10 PROGRESS REPORTS

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

- a. Update the project schedule, indicating progress for each task and Deliverable.
- b. Identify all information, personnel, equipment, facilities and resources of the City that will be required for the Consultant to perform the Services for the subsequent month.
- c. Identify and report the status of all tasks and Deliverables that have fallen behind schedule.
- d. Identify and summarize all risks and problems identified by the Consultant, which may affect the performance of the Services.
- e. For each risk and problem, identify the action and person(s) responsible for mitigating the risk and resolving the problem.
- f. For each risk and problem identified, state the impact on the project schedule.

11 QUALITY CONTROL PROGRAM

The Consultant shall establish and follow a quality control program throughout duration of the Agreement. The Quality Control Program will identify review personnel and describe the procedures to be used to verify, to independently check, and to review all Deliverables prepared,

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

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

12 ACCEPTANCE OF DELIVERABLES

If the City Project Manager is not satisfied that the Deliverable(s) have been met, a notice of rejection (a "Rejection Notice") shall be submitted to the Consultant by the City Project Manager that specifies the nature and scope of the deficiencies that require correction. Upon receipt of a Rejection Notice, the Consultant shall: (a) act diligently and promptly to correct all deficiencies identified in the Rejection Notice, and (b) immediately upon completing such corrections give the City a written, dated certification that all deficiencies have been corrected (the "Certification"). In the event the Consultant fails to correct all deficiencies identified in the Rejection Notice and provide a Certification within fifteen (15) days after receipt of the Rejection Notice, the City shall be entitled to terminate this Agreement for default without further obligation to the Consultant and without obligation to pay for the defective work.

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

13 NON-EXCLUSIVITY

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

14 REPRESENTATIONS AND WARRANTIES OF CONSULTANT

14.1 GENERAL WARRANTIES.

- a. The Services shall satisfy all requirements set forth in the Agreement and the Task Orders, including but not limited to the attached Exhibits;
- b. The Consultant has taken and will continue to take precautions sufficient to ensure that it will not be prevented from performing all or part of its obligations under the Agreement by virtue of interruptions in the computer systems used by the Consultant;
- c. All Services performed by the Consultant and/or its subcontractors pursuant to this Agreement shall meet the customary industry standards and shall be performed in a

- professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- d. Neither the Services, nor any Deliverables provided by the Consultant under this Agreement will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party. The Consultant shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this Agreement;
 - e. The Consultant and each employee provided by the Consultant to the City for this Project shall have the qualifications, skills and experience necessary to perform the Services described or referenced in **Exhibit A**;
 - f. All information provided by the Consultant about each employee is accurate; and
 - g. Each employee is an employee of the Consultant, and the Consultant shall make all payments and withholdings required for by law for the Consultant for such employee.

14.2 ADDITIONAL WARRANTIES

The Consultant further represents and warrants that:

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

15 OTHER OBLIGATIONS OF THE CONSULTANT

15.1 WORK ON CITY PREMISES

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

15.2 RESPECTFUL AND COURTEOUS BEHAVIOR

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

15.3 REGENERATION OF LOST OR DAMAGED DATA

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

15.4 REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES

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

16 REMEDIES

16.1 RIGHT TO COVER

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

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

16.2 RIGHT TO WITHHOLD PAYMENT

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

16.3 OTHER REMEDIES

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

17 TERMINATION OF CONTRACT

17.1 TERMINATION FOR CONVENIENCE

The City may terminate this Agreement for convenience at any time, for any reason or no reason, by giving thirty (30) days' prior written notice to the Consultant. In the event the Agreement is terminated pursuant to this Section, the Consultant shall continue performing the Services under authorized Task Orders until the termination date designated in the termination notice. As soon as practicable after written notice of termination without cause, Consultant shall submit a statement to the City showing in detail the authorized Services performed under this Agreement through the date of termination. In the event of termination without cause pursuant to this Section, the City agrees to: (i) pay the Consultant for authorized Services rendered through the termination date at the rates set forth in **Exhibit C**. The foregoing payment obligation is contingent upon: (i) the Consultant having fully complied with this Section; and (ii) the Consultant having

provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each person through the termination date and the percentage of completion of each Deliverable.

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

17.2 *TERMINATION FOR DEFAULT*

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

- a. The Consultant fails to complete a particular task by the completion date set forth in a Task Order;
- b. The Consultant makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, or any covenant, agreement, obligation, term or condition contained in this Agreement or any Task Orders under this Agreement; or
- c. The Consultant takes or fails to take any action which constitutes grounds for immediate termination under the terms of the Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by the Agreement, or failure to provide the proof of insurance as required by the Agreement.
- d. The Consultant violates or fails to perform any covenant, provision, obligation, term or condition contained in the Agreement, provided that, unless otherwise stated in the Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within fifteen (15) days of receipt of written notice of default from the non-defaulting party;
- e. The Consultant attempts to assign, terminate or cancel the Agreement contrary to the terms hereof;
- f. The Consultant ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under the Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of the Consultant's assets or properties.

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

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

17.3 CANCELLATION OF ORDERS AND SUBCONTRACTS

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

17.4 AUTHORITY TO TERMINATE

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

17.5 OBLIGATIONS UPON EXPIRATION OR TERMINATION

Upon expiration or termination of this Agreement, the Consultant shall promptly return to the City (i) all computer programs, files, documentation, media, related material and any other material and equipment that is owned by the City; (ii) all Deliverables that have been completed or that are in process as of the date of termination; and (iii) a written statement describing in detail all work performed with respect to Deliverables which are in process as of the date of termination.

17.6 NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS

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

17.7 TRANSITION SERVICES UPON TERMINATION

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

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

18 CHANGES

In the event changes to the Services (collectively "Changes"), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented in writing which expressly references and is attached to this

Agreement (an “Amendment”). The Amendment shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all milestones and delivery dates and any associated price.

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

19 RELATIONSHIP OF THE PARTIES

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

20 CITY OWNERSHIP OF WORK PRODUCT

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

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

The Consultant represents and warrants that the Intellectual Property will not infringe or misappropriate the intellectual property or other rights of any person or entity, and that the City shall have the unrestricted right to use the Intellectual Property for any purpose. The Consultant further represents and warrants that it has the right to grant the rights granted to the City in this Section on behalf of the Consultant subcontractors.

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

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

21 LICENSING

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

22 INDEMNIFICATION

To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Services or any products or deliverables provided to the City pursuant to this Contract ("Infringement Claims"); (ii) seeking payment for labor or materials purchased or supplied by the Consultant or its subcontractors in connection with this Contract; (iii) arising from the Consultant's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Consultant or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that the Consultant or an employee or subcontractor of the Consultant is an employee of the City, including but not limited to claims relating to worker's compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term "Indemnitees" means the City, any federal agency that funds all or part of this Contract, and each of the City's and such federal agency's officers, officials, employees, agents and independent contractors (excluding the Consultant); and (b) the term "Charges" means any and all losses,

damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

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

23 SUBCONTRACTING

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

24 INSURANCE

Throughout the term of this Agreement, the Consultant shall comply with the insurance requirements described in this Section. In the event the Consultant fails to procure and maintain each type of insurance required by this Agreement, or in the event the Consultant fails to provide the City with the required certificates of insurance, the City shall be entitled to terminate this Agreement immediately upon written notice to the Consultant.

24.1 General Requirements

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

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

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

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

Prior to execution of this Agreement, the Consultant shall provide the City with certificates of insurance documenting that the insurance requirements set forth in this Section have been met, and that the City be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Consultant

shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Agreement, and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of the Consultant shall not relieve the Consultant of its obligation to meet the insurance requirements set forth in this Agreement.

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

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

24.2 *Types of Insurance*

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

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

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

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

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

25 BACKGROUND CHECKS

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

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

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

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

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

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

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

26 COMMERCIAL NON-DISCRIMINATION POLICY

As a condition of entering into this Contract, the Consultant represents and warrants that it will fully comply with the City's Commercial Non-Discrimination Policy, as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors or suppliers in connection with a City contract or contract solicitation process, nor shall the Consultant retaliate against any person or entity for reporting instances of such discrimination. The Consultant shall provide equal

opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Consultant understands and agrees that a violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Consultant from participating in City contracts, or other sanctions.

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

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

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

27 MISCELLANEOUS

27.1 ENTIRE AGREEMENT

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

27.2 CHANGE IN CONTROL

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

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

27.3 GOVERNING LAW, JURISDICTION AND VENUE

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

27.4 BINDING NATURE AND ASSIGNMENT

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

27.5 CITY NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES

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

27.6 SEVERABILITY

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

27.7 NO PUBLICITY

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

27.8 NO BRIBERY OR LOBBY

The Consultant certifies that to the best of its knowledge, information, and belief, neither it, nor any of its affiliates or subcontractors, or any employees of any of the forgoing has bribed or

lobbied, or attempted to bribe or lobby, an officer or employee of the City in connection with this Agreement.

27.9 APPROVALS

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

27.10 WAIVER

No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.

27.11 SURVIVAL OF PROVISIONS

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

Section "Representations and Warranties of Consultant"

Section "Termination of Agreement"

Section "City Ownership of Work Product"

Section "Indemnification"

Section "Notices and Principal Contacts"

Section "Miscellaneous"

27.12 FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES

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

27.13 TAXES

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

27.14 CONSTRUCTION OF TERMS

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

27.15 TRAVEL UPGRADES

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

27.16 DELAYS AND EXTENSIONS

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

27.17 FORCE MAJEURE

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

- a. If such failure or delay could not have been prevented by reasonable precautions;
- b. If such failure or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
- c. If and to the extent such failure or delay is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, strikes, lockouts or court order (each, a "Force Majeure Event").

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

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

27.18 ENDORSEMENT OF DOCUMENTS

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

27.19 CADD STANDARDS; FINAL PLANS

The Consultant shall perform all Services in accordance with the current version of the City's CADD standards. Production of deliverables shall be in Civil3D 2018.

27.20 CORRECTION OF DEFECTS AND FAILURES

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

28 DISPUTE RESOLUTION

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

28.1 Any dispute arising between or among the Parties listed in Section 28.3 of this Article that arises from an agreement to perform services in conjunction with the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under the industry appropriate Mediation Rules ("Rules"). To the extent any provision of the Rules is inconsistent with the provisions of this Article, the provisions of this Article shall control. The mediation provided in this Article shall be used pursuant to this Agreement and NCGS 143-128(g-h) and is in lieu of any dispute resolution process adopted by any other government entity, which process shall not apply to this Project.

28.2 For purposes of this Article the following definitions shall apply:
a. Party or Parties refers to the parties listed in Section 28.3 of this Article.
b. Project means project pursuant to this Agreement.

28.3 The City and any Party contracting with the City or with any first-tier or lower-tier subcontractor for the performance of the Project agree to participate in good faith in any mediation of a dispute subject to this Article and NCGS 143-128(g-h), including without limitation the following Parties

(if any): Consultant, independent contractor(s) of the City, surety(ies), subcontractor(s), and supplier(s).

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

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

28.12 The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Mecklenburg County as the mediator shall determine.

28.13 The provisions of this Article are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Article.

28.14 The Parties understand and agree that mediation in accordance with this Article shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Article.

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

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

30. E-VERIFY

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

31. GENERAL COMPLIANCE WITH LAWS

31.1 GENERAL COMPLIANCE WITH LAWS

The Consultant will agree to comply with all FAR and FHWA requirements and guidelines, whether they are mentioned in the contract or not.

The Consultant shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the services provided herein. Specific attention is directed to North Carolina General Statutes 14-100 (Obtaining Property by False Pretenses) and 136-13.2 (Falsifying Highway Inspection Reports). 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 Consultant is unable to comply with such Regulations, the Consultant shall exercise usual and customary professional care in complying with such conflicting Regulations.

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

31.2 *SELECTION OF LABOR*

During the performance of this Contract, the Consultant shall not discriminate against labor from any other State, possession, or territory of the United States.

31.3 *EMPLOYMENT PRACTICES*

During the performance of this Contract, the Consultant agrees to comply with all applicable provisions of 49 CFR 21 through Appendix H and 23 CFR 710.405(b) and the Civil Rights Act of 1964, as amended, and agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age, handicap and/or disability. The Consultant will take affirmative action to ensure applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, sex, age, handicap and/or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the State setting forth the provisions of this nondiscrimination clause.
- b. The Consultant will state, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap and/or disability.
- c. The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State, advising the labor union or workers' representative of the Consultant's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The Consultant will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- e. The Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60), and will permit access to his books, records, and accounts by the Secretary of Labor for purposes of investigations to ascertain compliance with such rules, regulations and orders.
- f. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or Federally-assisted construction Agreements in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60) and such other sanctions may be imposed and remedies invoked as provided in the aforementioned Executive Order and regulations or as otherwise provided by Law.
- g. The Consultant will include the provisions of this Section 17.3 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.

31.4 *SELECTION OF SUBCONTRACTORS, PROCUREMENTS OF MATERIALS, AND LEASING OF EQUIPMENT*

During the performance of this Contract, the Consultant, for itself, its assignees, and successors in interest (herein referred to as "Consultant") agrees as follows:

- a. *Compliance with Regulations*
The Consultant will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21 through Appendix H and 23 CFR 710.405 (b), hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.
- b. *Nondiscrimination*
The Consultant, with regard to the work performed by them after award and prior to completion of the Contract work, will not discriminate on the ground of race, creed, color, national origin, sex, age, handicap and/or disability in the selection and retention of subcontractors, including procurements of material and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

The Consultant and its subconsultants shall not discriminate on the basis of race, color, national origin, sex, age, handicap and/or disability in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this Contract. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the City deems appropriate.

c. *Solicitations*

In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the Consultant of the Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, creed, color, national origin, sex, age, handicap and/or disability.

d. *Information and Reports*

The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, account, other sources of information, and its facilities as may be determined by the State to be pertinent to ascertain compliance with such Regulations, orders and instructions. If any information is required from the Consultant or a contractor and such information is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State as appropriate, and shall describe efforts it has made to obtain the information.

e. *Sanctions for Noncompliance*

In the event of the Consultant's or Contractor's noncompliance with the nondiscrimination provisions of this Section 17.4, the City shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- i. Withholding of payments to the Consultant under the Contract until the Consultant complies, and/or
- ii. Cancellation, termination or suspension of the Contract in whole or in part.

f. *Incorporation of Provisions*

The Consultant will include the provisions of this Section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract, procurement or leases as the State may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with litigation with a subcontractor, or lessor as a result of such direction, the Consultant may request the City to enter into such litigation to protect the interests of the City, the Consultant may request the State to enter into such litigation to protect the interests of the State, and in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

g. Environmental Protection

For contracts and subcontracts in excess of \$100,000, the Consultant shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The Consultants shall report violations to the grantor agency and to the USEPA Assistant Administrator for Enforcement (EN-329).

32. MISCELLANEOUS CONDITIONS

32.1 Amendment

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

32.2 Interest of the Parties

The Consultant 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 Contract.

32.3 Covenant Against Contingent Fees

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Consultants, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the City shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

33. SMALL PROFESSIONAL SERVICE FIRMS PROGRAM

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

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

To comply with requirements of the SPSF Program, see **Exhibit E**, attached hereto and incorporated herein.

34. MAINTENANCE OF INFORMATION AND REPORTS

34.1 FHWA Information

- a. All work shall be administered and performed in accordance with Federal-Aid Policy Guide (FAPG) – 23 CFR 172 and the North Carolina Administrative Code.
- b. Subcontracts exceeding \$2,500 that involve the employment of mechanics or laborers shall require the subcontractor to comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5).
- c. Subcontracts exceeding \$10,000 shall require the subcontractor to comply with all Federal regulations required in the prime contract.

34.2 Availability of Information

- a. The Consultant shall maintain all books, documents, papers, accounting records, and other information pertaining to cost incurred in this project and to make such materials available at its offices at all reasonable times during the Contract period and for three (3) years from the date the Project has been closed or “final vouchered” in the Federal Highway Administration Agency’s fiscal system for inspection by the City, the State, Federal Highway Administration, or any authorized representative of the City, the State, and/or Federal Highway Administration, if requested. The Consultant shall use cost principles as described in Federal Acquisition Regulation (48 CFR 1-31), Subpart 1-31.2.
- b. The Consultant shall require all subcontractors to whom a portion of this Contract may be sublet to maintain all such books, documents, papers, accounting records, and other information pertaining to cost, and further to require that said subcontractors make these materials available to the City, State, and/or Federal Highway Administration at all reasonable times during the contract period and for three (3) years from date the Project has been closed or “final vouchered” in the Federal Highway Administration Agency’s fiscal system, and to require said subcontractors to furnish copies of such documents to the City, the State, and/or Federal Highway Administration upon request. The Consultant shall affirmatively enforce this provision of this Contract with the subcontractor upon request of the State or Federal Highway Administration.
- c. The Consultant shall notify the City of significant changes within the Consultant’s firm (e.g., change of address, telephone number, project-related personnel changes, etc.). This responsibility includes ensuring the Consultant’s qualification paperwork and registration information is current in the State’s files.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

THIS AGREEMENT, entered into as of the day and year first written above for On-Call Consulting Services for CRTPO, Agreement Number 2020xx.

CONSULTANT NAME

By: _____
Signature

Print Name

Title

Date

CITY OF CHARLOTTE

By: _____
Signature

Print Name

Title

Date

EXHIBIT A – SCOPE OF WORK

Project Overview

The Charlotte Regional Transportation Planning Organization (CRTPO), housed in the Charlotte Planning, Design & Development Department at the City, is a federally-mandated transportation policy board comprised of representatives from local, state, and federal government, transit agencies, and other stakeholders. The CRTPO is responsible for transportation planning and programming in Iredell, Mecklenburg, and Union counties. The CRTPO is also the federally-designated Metropolitan Planning Organization (MPO) for the Charlotte Urbanized Area.

On-Call Consulting Services for CRTPO

The CRTPO, in cooperation with the State of North Carolina, develops transportation plans and programs for its planning area comprised of Mecklenburg, Iredell, and Union counties. These plans (1) assist governing bodies and official agencies in determining courses of action and formulating attainable capital improvement programs in anticipation of community needs; and (2) guide private individuals and groups in decision making that can be important factors in the pattern of future development and redevelopment of the area.

The goals of the CRTPO are to:

- Provide, manage, and maintain a safe, efficient, and sustainable transportation system for all modes of travel, intended to serve all segments of the population.
- Encourage walking, bicycling and transit options, integrated with motor vehicle transportation, by providing a transportation system that serves the public with mobility choices.
- Provide a sustainable transportation system that improves the quality of life for residents, promotes healthy living, and is sensitive to significant features of the natural and human environments.
- Promote equitable transportation options for low income and minority neighborhoods, as well as the aging population.
- Encourage regional collaboration and linkages between transportation and land use planning.
- Support economic competitiveness by making investment decisions for transportation modes that make the most efficient use of limited public resources and enhance system performance, as well as by pursuing sustainable funding possibilities.
- Maximize transportation opportunities for the movement of goods.

The Consultant shall to assist the CRTPO, on an as-needed basis and consistent with the CRTPO's goals and objectives, with various consulting, planning, or analysis services. Firms selected for these services may receive multiple task orders or none at all. Services may include, but are not limited to, the following:

- Engineering and planning related to thoroughfare projects.
- Multi-modal engineering and planning.
- Assistance implementing, updating, and maintaining the Comprehensive Transportation Plan.
- Modifications to existing planning processes, such as the Unified Planning Work Program (UPWP), Transportation Improvement Program (TIP), Metropolitan Transportation Plan (MTP), performance-based planning, and discretionary projects.

- Transportation studies, including but not limited to, corridor and sub-area studies, traffic simulation, traffic analysis, project planning, and environmental analysis and design.
- Incorporating performance targets and milestones into planning recommendations.
- Providing project management functions.
- Financing and funding, and
- Public involvement activities, including but not limited to, assisting with outreach activities, website improvements, public outreach document preparation, visualization, and graphics.

EXHIBIT B – PROJECT SCHEDULE

Task Orders Schedules

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

EXHIBIT C – FEE/COST BREAKDOWN

Hourly and Unit Price Rates

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

EXHIBIT D – KEY PERSONNEL

Insert org chart or list of key personnel

EXHIBIT E – SMALL PROFESSIONAL SERVICE FIRMS (SPSF) PROGRAM REQUIREMENTS

In order to track participation by Small Professional Service Firms (SPSFs) on this Contract, the Consultant will list all subconsultants on DBE-IS together with each invoice.

The Consultant has committed to utilize SPSF firms for at least _____% of the work under this Contract.

EXHIBIT F – COMMERCIAL NON-DISCRIMINATION CERTIFICATION

Project: On-Call Consulting Services for CRTPO
Name of Company: Consultant Name

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

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

By: _____
Signature of Consultant's Authorized Representative

Title: _____

Date: _____

EXHIBIT G – BYRD ANTI-LOBBYING CERTIFICATION

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

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

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

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

(Print Name)

Company Name

Authorized Signature

Address

Date

City/State/Zip

EXHIBIT H

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELEGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Instructions for completing the certification are on the following page (Exhibit 2).

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Business Name

Date

Name and Title of Authorized Representative

By: _____
Signature of Authorized Representative

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered, unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” without modifications, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is now required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in

addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

EXHIBIT I – CERTIFICATE OF INSURANCE

Insert COIs

EXHIBIT J – TASK ORDER TEMPLATE

TASK ORDER FOR CONTRACT 2020xxx

Pursuant to the Agreement for On-Call Consulting Services for CRTPO (“Master Agreement”), Contract Number 2020xx, this Task Order (“Task Order”) is made by and between the City of Charlotte (“City”) and Consultant Name (“Company”).

1. PURPOSE

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

2. TECHNICAL COORDINATORS

For the Company:

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

For the City:

3. SERVICES TO BE PERFORMED

[Insert description of service/scope of work]

4. PLACE OF PERFORMANCE

[Insert description or address where work will be performed]

5. TIMEFRAME

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

6. PERSONNEL ASSIGNED TO PERFORM THE SERVICES

[Insert name(s) of staff]

7. ALLOCATED FUNDING

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

8. INVOICING

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

Invoice Amount
Cumulative Amount Billed
Purchase Order Number

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

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

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

City of Charlotte – Accounts Payable
Attn: _____ *[insert name of person administering this Task Order]*
Charlotte Planning, Design & Development
P.O. Box 37979
Charlotte, NC 28237-7979

9. TERMINATION BY THE CITY.

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

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

Consultant Name

By: _____

Title: _____

Date: _____

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

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