REQUEST FOR QUALIFICATIONS

DESIGN SERVICES FOR HVAC AND GENERATOR REPLACEMENT
FOR CHARLOTTE-MECKLENBURG GOVERNMENT CENTER
AND
LIGHTING DESIGN SERVICES FOR THE CMGC DECK

RFQ# 2019-419

Date Issued:

September 6, 2019
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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) HVAC system design services for the Charlotte-Mecklenburg Government Center (CMGC), (B) design services for generator replacement at the CMGC, and (C) lighting design for the CMGC parking deck. The City is seeking firms whose combination of experience and expertise will provide timely, professional services to the City. The City may choose to contract with one firm for all the required services, or contract with multiple firms. The City reserves the right to enter into one or more contracts with any firm selected under this RFQ process.

Information related to this solicitation, including any addenda, will be posted 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 Projects Overview
Most of the HVAC and generator equipment at the CMGC is original to the building and well past its useful life. This makes it difficult to adequately heat, cool, and ventilate the building, as well as maintain the generators for emergency readiness in case of disaster. The generators and entire HVAC system at the CMGC are in need of replacement with new energy efficient equipment. The City plans to pursue Energy Star certification once the system has been replaced.

Since the building is occupied and needs to remain operational, it is anticipated that the HVAC construction services will be phased over a four-year period. A construction manager-at-risk will most likely be selected to manage the construction services associated with the HVAC replacement.

Installation of the generators is expected to occur in the near future and will be managed by City staff working directly with a contractor.

Work at the CMGC parking deck involves replacing existing lights and creating distinctive lighting features to illuminate sidewalks and public access areas connected to the deck.

The City has adopted a new Strategic Energy Action Plan (SEAP) with new carbon neutral goals to be met by all facilities and fleet vehicles by 2030. It is imperative that all new designs that involve the consumption of energy keep these goals in mind to help us meet this critical challenge. Photovoltaic may also be added to help offset the grid load with clean, renewable energy.
Scopes of work for design services for the generators and HVAC system, and the electrical design services for the parking deck are provided in Exhibit A and attached to this RFQ. A copy of the City’s Sustainability Policy is provided in Exhibit B, also attached to this RFQ.

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.

<table>
<thead>
<tr>
<th>Event/Deadline</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertisement of RFQ:</td>
<td>September 6, 2019</td>
</tr>
<tr>
<td>Pre-Submittal Meeting and Walk-Through:</td>
<td>September 17, 2019, at 11 AM</td>
</tr>
<tr>
<td></td>
<td>Charlotte-Mecklenburg Government Center</td>
</tr>
<tr>
<td></td>
<td>600 E. 4th Street, 12th Floor Large Conference Room</td>
</tr>
<tr>
<td>Deadline for Questions:</td>
<td>September 25, 2019, at 5 PM</td>
</tr>
<tr>
<td><strong>DUE DATE &amp; TIME FOR PROPOSALS:</strong></td>
<td>October 4, 2019, at 1 PM</td>
</tr>
<tr>
<td>Evaluation Meeting:</td>
<td>October 30, 2019</td>
</tr>
<tr>
<td>Selection Announcement:</td>
<td>November 5, 2019</td>
</tr>
</tbody>
</table>

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, or the North Carolina Board of Architecture, as applicable for the required services.

Evaluation criteria consist of:

- Qualifications and Relevant Experience of Firm and Key Team Members in Providing Similar Services for Similar Projects;
- Availability of the Firm and Key Team Members for This Project;
- Project Understanding, Methodology, Approach and Permitting; and
- Charlotte Business INClusion Outreach Documentation.
The City will appoint an evaluation committee whose responsibilities will include performing technical evaluations of each SOQ and making selection recommendations based on the evaluation criteria provided above. Evaluations will focus on identifying the relative strengths, weaknesses, deficiencies, and risks associated with each SOQ. Interviews are not anticipated, but may be conducted at the discretion of the evaluation committee. The City reserves the right to obtain clarification or additional information from any firm regarding to its SOQ.

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

1.5 **SOQ Format**

Consultants may submit their qualifications for (A) CMGC HVAC design services, (B) CMGC generator replacement, and/or (C) parking deck lighting design services. A separate SOQ package should be submitted for each project and clearly labeled to indicate Project A, B, or C.

The SOQ package should consist of a cover letter, responses to the specific inquiries in Section 1.6 below, and a set of completed Forms 1 through 4. Interested Firms must submit one (1) original bound SOQ package and two (2) bound copies, 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 all three projects, that would be three (3) SOQ packages for each project or a total of nine (9) packages altogether. Electronic copies for Projects A, B, and C may be combined on one CD or flash drive.

SOQs are limited to a maximum of 10 numbered, printed pages (5 pages printed double-sided, 10 pages printed single-sided, or a combination not exceeding 10 pages of print) for each project (i.e., a maximum of 30 printed pages if submitting for all three projects) excluding 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. 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 follow:

**Cover Letter: General Information**

A. Describe your interest in this Project and the unique advantage your firm and team brings.

B. What challenges or impediments could affect the schedule or budget for the project? How do you propose to address and mitigate these? Give examples of similar challenges on your past projects.
C. State any conflicts of interest your firm or any key team member may have with this Project.

D. Identify and describe any pending claims, disputes, and/or litigation and any that occurred within the past five (5) years involving your firm or any of your proposed subconsultants. With respect to resolved matters, describe the outcome.

E. Provide a description of the company that will enter into the contract(s) with the City, including origin, background, current size, financial capacity, available resources, general organization, and company headquarters. Identify the name and title of the person authorized to enter into the contract(s) with the City.

F. List exceptions to the City’s standard contract terms and conditions. A sample contract is attached as Exhibit C – Sample Contact.

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

A. List a maximum of 3 relevant, similar projects, either currently in progress or having been completed in the past 5 years, containing work comparable to this specific Project, including any projects with the City, as follows:

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

B. Provide an organization chart of all key team members who will be directly involved in providing services, including any subcontractors, to be assigned specifically to this project. Identify the Project Manager who will be empowered to make decisions for and act on behalf of the firm. Identify any member of the team that is certified as a minority, women or small business firm.

C. Discuss your firm’s/team’s qualifications and previous experience on similar or related projects, specifically:

- Designing energy efficient systems and designs

- For Project A:
  - Renovating an occupied high-rise building with restrictions
  - Phasing a project in an occupied high-rise building
• For Project B:
  - Designs for generator replacement

• For Project C:
  - Relighting existing garages with LED lights

D. Describe any previous collaboration(s) between key team members, the responsibilities of each team member during these collaborations, and the project(s) outcome. Cite any significant achievements reached as a result of this collaboration. Discuss the successes of the team collaboration, and any problems encountered and methods used to mitigate issues.

E. Resumes may be submitted for each proposed key team member. Resumes will not be counted towards the page limit.

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

A. Discuss availability of key team members and provide a list of current projects/work for each key team member.

Tab 3: Project Understanding, Methodology, Approach and Permitting

A. Discuss the Firm’s understanding of the Project objectives and describe the proposed project approach to deliver the Services in an effective, timely and professional manner. Describe any methods the firm intends to use to reduce project costs. Outline the project plans, structure and services to be provided and how and when these services shall be provided. This description should fully and completely demonstrate the proposer’s intended methods for servicing the requirements of all aspects of the Project set forth herein.

B. Describe any support needed from City staff in order to execute the Services.

C. Describe the firm’s Project Management and Quality Control procedures, processes for performance, and past involvement in projects of similar nature to those anticipated as a result of this solicitation.

D. Discuss the firm’s Management and Quality Control procedures related to subconsultants.

E. Provide a schedule overview and discuss how your firm will meet the City’s schedule requirements.

F. Discuss your understanding of the permitting process in Charlotte-Mecklenburg.

Tab 4: Charlotte Business INClusion Minority and Small Business Inclusion Strategy

A. Have you included Minority and Small Business Enterprises on past similar projects? Please document any history of working with Minority and Small Business Enterprises in your response.
B. Identify outreach efforts that will be employed by the Proposer to maximize inclusion; please identify outreach efforts that have already been conducted in connection with this RFQ.

C. Please identify Minority and Small Business Enterprises vendors that will be utilized during the various phases of this RFQ.

D. Please identify specific scopes of work to be performed by Minority and Small Business Enterprises during various phases of this RFQ.

E. For this RFQ, have you communicated with any local Minority and Small Business Enterprises to discuss participation opportunities? If so, who? For what scopes?

F. Provide a Minority and Small Business Enterprise (Charlotte Business INClusion) Participation Plan as required in Form 2 of this RFQ.

For more information on Charlotte Business INClusion please refer to Section 2 of this RFQ.

Tab 5: Required Forms
Forms 1 thru 4 provided with this RFQ shall be completed and submitted with the SOQ for each project A, B, and/or C. Required Forms will not be counted towards the page limit.
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 and with either the North Carolina Board of Registration for Professional Engineers and Land Surveyors or the North Carolina Board of Architecture at the time of submission of the SOQ. The firm(s) selected under this RFQ will be responsible for providing all professional, technical, managerial, and administrative staff with the appropriate skills and qualifications to perform the required Services. The person in responsible charge of the work must be a registered professional in the State of North Carolina and must have good ethical and professional standing.

Any firm proposing to use corporate subsidiaries or subcontractors must include a statement that these companies are properly registered with the NC Board of Registration for Professional Engineers and Land Surveyors or North Carolina Board of Architecture, as applicable. It will be the responsibility of the prime firm to verify the registration of any corporate subsidiary or subcontractor prior to submitting a SOQ. For detailed licensing requirements, refer to North Carolina General Statutes (http://www.ncbels.org/rulesandlaws.html).
2.10 **Financial Capacity; Insurance Requirements**  
The selected firm must have the financial capacity to undertake the work and assume associated liability.

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

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

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

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

2.14 **Equal Opportunity**  
The firm will ensure that employees and applicants for employment are not unfairly discriminated against because of their race, color, religion, sex, national origin, disability or veteran status.
2.15 **E-Verify Certification**
The firm shall comply with requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and shall require each of its subcontractors to do so as well.

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

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

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

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

- **Worker’s Compensation and Occupation Disease Insurance**: In conformance with State law, in an amount of $100,000 each accident and disease for each employee, and $500,000 disease policy limit providing coverage for employees and owners.

- **Professional Liability Insurance**: In an amount of not less than $1,000,000 each claim and $1,000,000 aggregate.

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

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

2.18 **Background Checks**

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

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

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

2.20 **Charlotte Business INClusion**

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

The City of Charlotte is committed to promoting opportunities for maximum participation of certified M/W/SBEs on City funded contracts at both the prime and subcontract level. For M/W/SBE participation to count towards a goal, M/W/SBEs must meet both the certification and geographic requirements as detailed throughout this solicitation and in the CBI Policy.

The **Charlotte CSA** refers to the Charlotte-Gastonia-Salisbury Combined Statistical Area in effect as of April 8, 2013 consisting of; (a) the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union; and (b) the South Carolina counties of Chester, Lancaster, and York. This is one criteria used by CBI to determine eligibility to participate in the program.

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

The City will negotiate Minority Small Business Enterprise (MSBE) Subcontracting Goals for the Project with the selected firm(s):
**MBE Goal:** May be satisfied by an entity that qualifies as a Minority Business Enterprise under N.C. Gen. Stat. § 143-128, and that has been certified as a Historically Underutilized Business by the State of North Carolina with a significant business presence in the Charlotte Combined Statistical Area. Please note, when identifying MBEs for inclusion towards the MBE Goal, only HUB-certified MBEs with a significant business presence in the Charlotte Combined Statistical Area will be counted towards the MBE Goal.

**SBE Goal:** May be satisfied by an entity that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.

**MSBE Goal (Project Goal):** The total work performed by MBEs or SBEs in the aggregate for this Project.

The City will negotiate at least a 10% M/SBE Subconsulting Goal for the Projects with the selected firm(s).

Firms are required to include a Minority & Small Business Enterprise Participation Plan (Form 2 provided with this RFQ) that describes the firm’s approach and past history with MSBE subcontractor utilization. The Participation Plan shall include at a minimum the following elements:

- Identify MSBEs that will be committed and utilized by the firm for the Project;
- Identify specific scopes of work to be performed by the MSBEs for the Project; and
- Document the overall percentage to be committed to MSBEs for the Project.

In addition to the MSBE participation plan, we recommend the firm provide a mentoring plan for the MSBE during the life of the project. The firm would provide documentation on a quarterly basis during the project on the progress of the mentor/protégé partnership.

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

The documentation required in this section shall be submitted with the firm’s SOQ (collectively “Minority & Small Business Inclusion Strategy”).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
Form 1 – Execution of SOQ

Design Services for CMGC HVAC, Generators, and Lighting Design Services for the CMGC Parking Deck

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:
(check 1 box)

- Sole Proprietor
- 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. CMGC HVAC Design Services
B. CMGC Generator Design Services
C. CMGC Parking Deck Lighting Design Services
# Form 2 – Minority and Small Business Enterprise Participation Plan

## Project Name:
Design Services for CMGC HVAC and Generators, and Lighting Design Services for the CMGC Deck

## Consultant Name:

---

List below all **MSBEs** that you intend to use on this contract.

<table>
<thead>
<tr>
<th>Subconsultant’s Name</th>
<th>Description of Work / Materials</th>
<th>Indicate either “M” and/or “S”</th>
<th>City Vendor #</th>
<th>Projected MSBE Utilization ($)</th>
</tr>
</thead>
<tbody>
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</table>

**Total MSBE Utilization** % $  
**Total Contract Amount** $
Form 3 – Commercial Non-Discrimination Certification

Project Name: Design Services for CMGC HVAC and Generators, and Lighting Design Services for the CMGC Deck

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 4 – Key Team Member Matrix

(Attach additional sheets as necessary)

<table>
<thead>
<tr>
<th>KEY TEAM MEMBERS</th>
<th>Key Team Member 1</th>
<th>Key Team Member 2</th>
<th>Key Team Member 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
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<tr>
<td>Professional Certifications/Licenses</td>
<td></td>
<td></td>
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<tr>
<td>(include Certification/License #)</td>
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<tr>
<td>Energy Certifications (e.g., LEED, Green Globes)</td>
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<tr>
<td>Relevant Academic Degree(s)</td>
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<tr>
<td>Proposed Role/Function for Projects</td>
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<tr>
<td>Day-to-Day Contact?  Indicate &quot;yes&quot; or “no.”</td>
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<tr>
<td>Office Location (City, State)</td>
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<tr>
<td>Number of Years with Current Firm</td>
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<tr>
<td>Number of Years of Relevant Experience</td>
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<tr>
<td>Availability to Provide Services for this Project</td>
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<tr>
<td>Experience Working in an Occupied High-Rise?</td>
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<td>Experience with Parking Deck Lighting Design?</td>
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<td>Experience with Phased Projects?</td>
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<tr>
<td>List Notable Projects/Experience. State if experience is with current firm or provide name of previous firm.</td>
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</table>
EXHIBIT A – SCOPE OF WORK

CMGC GENERATORS AND HVAC DESIGN SCOPE

Background
The Charlotte-Mecklenburg Government Center (CMGC) is a 400,000 SF, 15-story building that was constructed in 1986. Nearly all of the HVAC equipment is original to the building and is past its useful life, making it difficult to heat, cool, and ventilate the building. The HVAC system at the CMGC needs to be replaced with new energy efficient equipment.

The City is seeking firms to provide mechanical and electrical HVAC and generator design services for the CMGC. The City plans to also hire a construction manager-at-risk who will provide pre-construction services throughout the duration of design, and will perform construction management services based on the design for all work except the generators. City staff will manage the generator replacement.

The City has record drawings that will be made available to the selected consultant to assist in the system design. Generator replacement will be performed first and as soon as possible. The HVAC upgrades will most likely be phased over a four-year period to allow the building to remain operational during construction.

Funding and Phasing
Allocated funding for the project is in the $25 million range and the project is anticipated to be phased over a five-year period.

Systems Included in Design
- **Generators:** Two existing 475 KW diesel generators and all associated components will need to be removed and replaced with two new 500 KW diesel generators with day tanks, remote radiators, new radiator piping, and new exhaust ductwork. The existing paralleling gear will need to be removed and replaced with a new 1600A paralleling gear and reconnected to all existing feeders.
- **Boilers:** Two gas hot water boilers located in the basement are original to the building.
- **Controls:** Motor controls centers that feed Flakt fans and other controls that may be needed. The new controls would be required to communicate seamlessly with the existing Schneider Electric control system.
- **Piping:** Hot and cold-water piping located throughout the building.
- **Fire dampers:** 90 pneumatic fire dampers are original to the building and need to be updated to DDC controls.
- **Air Handling Units:** Two Flakt fans located in the penthouse and two located in the basement are in need of replacement. The fans and coils supply a dual duct system that contains a hot deck and cold deck. Roughly 1,000 VAV boxes and fan power boxes that are located throughout the building may be in need of replacement.
- **Ductwork:** The main ductwork located in the building core and branch ductwork located on each floor is in likely need of replacement and redesign.

Systems Not Included for Design
- **Chillers:** Three chillers located in the basement were replaced in 2014.
CMGC DECK DESIGN SCOPE

Purpose
The City is seeking an experienced and creative electrical design firm to provide lighting design services for the Charlotte-Mecklenburg Government Center Parking Deck.

Project
The CMGC Parking Deck is a 5-story stair-step design structure with 927 parking spaces. The ceiling is exposed concrete with double-T beams. There are existing induction lights that are not energy efficient and are approaching the end of their useful life.

Services Needed
The selected firm will be asked to develop a plan that:

• Utilizes property facades for the installation of distinctive fixtures to illuminate sidewalks and public access areas.
• Specifies fixtures using LEDs or equally energy efficient lights.
• Provides recommended quantities and placements for the fixtures and technical specs.
• Includes a realistic budget and timetable for purchase/fabrication, installation, maintenance and energy costs.
• Includes a site plan and at least one rendering of design concept.
City of Charlotte
Policy for Sustainable City Facilities

Effective July 1, 2016
CITY OF CHARLOTTE
POLICY FOR SUSTAINABLE CITY FACILITIES

Policy Statement:
The City of Charlotte ("City") is committed to environmental, economic, and social stewardship of City buildings and facilities and continues to demonstrate environmental leadership in the community. Effective July 1, 2016 all newly constructed City-owned, City-managed and City-funded occupied buildings and major renovations (5,000 SF and greater) and any size renovation impacting major building systems associated with energy consumption will be designed and constructed to meet LEED Version 4 Certification Level, as a minimum and where applicable, be formally LEED certified, and achieve Designed to Earn ENERGY STAR Certification. In addition, through consultation with the Sustainable Facilities Oversight Team (SFOT), city Staff will choose existing City-owned facilities to become LEED Existing Building: Operations & Maintenance (EBOM) certified and achieve ENERGY STAR Certification over a 10-year phased approach. Staff’s work under this Policy will be guided by the City’s sustainability goals, as detailed in the Policy and in Appendix A.

The SFOT made the determination to require a certification recognizing the value the process will bring to the City’s goal of being a global environmental leader. LEED, Green Globes or an equivalent certification process brings several benefits to the building and renovation process; these certifications have become customary practice in the building community as entities have seen the proven benefits and reduction of associated premium costs. Recognized benefits include:

- A comprehensive industry-accepted process and framework to guide design, building, renovation, operation and maintenance;
- A community of professionals to offer support, guidance and practical experience;
- Access to the latest technologies and practices;
- A vehicle to measure the City against other municipal environmental leaders globally;
- A rigorous third-party commissioning process;
- An ongoing method to assist with measurement, verification, recording and reporting of sustainable features;
- Cost savings and improved working conditions; and
- A consistent city-wide method by which the City will design, construct, renovate operate and maintain its occupied facilities.

However, recognizing that no system is perfect, SFOT has written the policy to allow for flexibility where a certification process conflicts with the City’s environmental, economic or societal values.

Policy Purpose:
This Policy for Sustainable Facilities ("Policy") is intended to direct City staff to locate, design, construct, operate and maintain sustainable City-owned, City-managed, and City-funded facilities, which meet the functionality and service delivery needs of the citizens of Charlotte while minimizing environmental impacts and conserving and protecting all resources, now and in the future. Sustainable facilities not only provide environmental benefits to the community, they result in economic savings to the City, support the region’s sustainable building industry, and protect occupant health, maximize productivity and encourage sustainable employee behaviors. All these elements are crucial for staff to address when striving to achieve the City Council’s goal of Charlotte becoming a global leader in environmental sustainability.
**Definitions:**

City-owned, managed, and/or funded: Facilities owned, managed or provided funding by the City.

Designed to Earn ENERGY STAR: Recognizes a design project that meets strict EPA criteria for estimated energy performance. It signifies that, once built, the building is poised to achieve top energy performance and will be eligible to earn ENERGY STAR certification.

ENERGY STAR Certification: Recognizes an existing building that meets strict EPA criteria for estimated energy performance. It signifies the building achieves top energy performance.

Internal Environmental Operations Plan: The City’s organizational framework and guiding document that sets goals and priorities aimed at making the City’s internal operations more environmentally responsible, efficient and cost effective.

LEED (Leadership in Energy and Environmental Design): Consensus based generalized point rating system for locating, designing, constructing, operating and certifying sustainable buildings. Rating system addresses environmental predetermined categories that include sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental policy, design and process innovation, and LEED Accredited Professional.

LEED-EBOM: Consensus based generalized point rating system for ongoing operations and maintenance of existing commercial and institutional buildings. The certification system identifies and rewards current best practices and provides an outline for buildings to use less energy, water and natural resources; improve the indoor environment; and uncover operating inefficiencies.

Major Renovation: A renovation of at least 5,000 square feet of internal occupied space involving significant Mechanical, electrical & plumbing features of the facility.

New Construction: City-owned buildings and facilities that are to be planned and constructed on a new or existing site, including, but not limited to, new office, arena, and fire and police stations.

Occupied facility/space: A facility or enclosed space providing for human activity on a regular basis, including parking decks.

The SFOT: The Sustainable Facilities Oversight Team, an inter-departmental team responsible for the oversight & implementation of the Policy for Sustainable City Facilities.

Uniquely cost prohibitive: A cost premium greater than a 5% of the total project budget, due to the inclusion of sustainable features & associated design fees per certification of new and existing facilities.
**Process:**

Provided below are thirteen points that constitute the Policy. Appendix A, which is incorporated by reference, provides more detail on several of these points to better explain the intent and provide ease of implementation.

1. This Policy designates the use of the LEED™ Version 4 rating system and Designed to Earn ENERGY STAR, which provides measuring tools to ensure the City’s commitment to sustainable facilities and major renovation projects.

2. This Policy shall be guided by the City’s sustainability priorities, as outlined in the Internal Environmental Operations Plan, including:
   - Preservation and restoration of natural resources, e.g., land, streams and trees;
   - Conservation of water resources and protection of water quality;
   - Reduction of energy use and carbon footprint in facilities and fleet;
   - Maximization of transportation alternatives;
   - Leading by example & encouragement of local sustainability industry;
   - Practicing waste minimization and recycling and implementing environmentally conscious practices in the supply chain;
   - Implementation of regulatory best practices while raising employee awareness;
   - Protecting occupant health, maximize productivity & encouraging sustainable Employee behaviors; and
   - Enhancing opportunities for employees to be environmental stewards.

3. Design and project management teams for all qualifying projects are required to:
   - Meet LEED™ v4 Certification level or higher;
   - Submit project specific SFOT LEED™ checklist to the SFOT for approval after schematic design (35%) and construction documentation (95%);
   - Include proposed LEED™ Certification level with Request for Council Actions for design award, include approved LEED™ checklist with Request for Council Actions for construction award; and address Policy consistency on a project basis;
   - Look for opportunities to co-locate facilities, e.g., NBS and CMPD facilities, and seek innovation points under the certification process;
   - Include as a separate budget item for all capital funding requests submitted to Budget and Evaluation for new construction or major renovations, life cycle costs and benefits estimates for any sustainable features to be involved in the project, including the cost of the third-party certification, e.g., LEED, Green Globes. All submitted capital facilities funding requests will compete with other City capital needs for available funding; and
   - Make every effort, to ensure that environmentally sustainable features are the last items considered for removal during value-engineering process, if the need shall arise.

4. This Policy allows for an exemption if compliance with one or more policies set forth above is demonstrated as uniquely cost prohibitive (due to site constraints, building or zoning regulations, or other unique conditions that cannot be reasonably overcome). Under these circumstances, the relevant Department head(s) in collaboration with the project management team may request the SFOT to approve an exemption from the Policy. If an exemption is granted, the design and project management team is expected to include as many sustainable features as possible and must submit a LEED™ Version 4 scorecard indicating the sustainable features included. Commissioning is expected on exempted projects.

5. Departments may request for SFOT consideration and approval, the use of an alternative rating system to LEED™ Version 4, if appropriate.
6. This Policy directs each Department responsible for the location, design, construction, operation and maintenance of City facilities to annually report through the City’s Internal Environmental Operations Plan:
   a. Achievements in sustainable design and construction; and
   b. Performance of their Facility Portfolio against standardized benchmarks.

7. This Policy further requires that any staff member with facility construction or renovation project management responsibilities will earn the credential of LEED™ Green Associate or demonstrate an equivalent level of training and/or experience in the area of sustainable facilities. Department heads shall submit to the SFOT a list of these City staff and a schedule for them to earn the credential.

8. This Policy encompasses existing facilities and advocates a “Fix-it-First” focus when addressing repair and replacement of existing occupied facilities, in accordance with the City’s Community Investment Plan Program Policies for developing and implementing the CIP (see Appendix A). This allows the City to meet energy reduction and sustainability goals while minimizing the need to build new facilities.

9. This Policy shall emphasize a site location and selection process that considers the adaptive re-use of existing City-owned and community resources (existing structures, available infrastructure, and brownfield/grayfield real properties) over the development of new facilities/structures and the development of greenfield sites. Derived resource savings that are realized shall be documented, and innovative points shall be allocated to the projects as part of the certification process.

10. Departments responsible for the operation, maintenance, and repair of existing occupied facilities shall:
   a. Achieve & annually renew Energy Star Certification for all eligible City-owned occupied facilities;
   b. Utilize LEED™ EBOM as a guidance tool;
   c. Seek LEED™ EBOM certification as deemed appropriate by City staff in consultation with the SFOT; and
   d. Energy Star Certification, or an equivalent, is necessary to proceed with LEED™ EBOM Certification. A phased 10-year certification process is planned by the SFOT selecting ‘flagship’ facilities from all Departments.

11. All newly constructed City-owned, City-managed and City-funded occupied buildings and major renovations (5,000 SF and greater), and those facilities chosen for LEED EBOM certification, shall have installed at least one communication-enabled level 2 electric vehicle charging station (preferably with two charging ports). Where practicable, this station(s) will be publicly accessible. In certain situations, e.g., proximity to interstates, Departments should consider installing DC fast charging stations.

12. A Pay as You Go Fund to support staff’s LEED EBOM work is to be established. Each fiscal year, per the SFOT’s recommendation and as funds are available, City Council will appropriate funds to support this work. Enterprise funds will establish a funding source to support the work in their respective departments: CATS; Storm Water Services; Aviation; Charlotte Water; and CRVA.

13. The SFOT will review this Policy annually to determine the need for revisions due to changes in Council’s Sustainability Priorities or Goals, the availability of tools for designing sustainable facilities, the roles prescribed by the Policy, etc.

APPENDIX A

Policy Background

The foundation for the Policy is the City Council’s Environment Focus Area Plan (FAP), which states “Charlotte will become a global leader in environmental sustainability, preserving our natural resources while balancing growth with sound fiscal policy.”
According to the FAP, Charlotte will become a global leader in environmental sustainability by:

- Promoting and participating in the development of an environmentally sustainable community;
- Leading by example by practicing environmental stewardship in City operations and facilities;
- Seeking and supporting collaborative and regional solutions to environmental problems;
- Facilitating the growth of the clean energy industry, including the alternative energy sector.

The Policy further aligns with and supports the City’s:
- Internal Environmental Operations Plan;
- Environmental and Infrastructure General Development Policies;
- Post Construction Stormwater Ordinance;
- Tree Ordinance;
- Centers, Corridors, and Wedges Growth Framework;
- City’s Strategic Energy Management Plan;
- Stormwater Pollution Control Ordinance; and
- Sedimentation and Erosion Control Ordinance.

**City Priorities, Goals and Established Policies**
The City has several relevant sustainable priorities, goals and policies that staff must consider when complying with this Policy. Thus, in addition to the certifications required by the Policy, staff’s work will be guided by the City’s sustainability goals, as further outlined below.
<table>
<thead>
<tr>
<th>Priority</th>
<th>Goals &amp; Established Policies</th>
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<tbody>
<tr>
<td><strong>Preservation of Natural Resources, e.g., Land &amp; Trees</strong></td>
<td>Meet the 50% by 2050 tree canopy goal. Meet the intent of City Environmental and Infrastructure General Development Policies (GDP) and other existing City Ordinances, e.g., Tree Ordinance. The GDP guides staff and the community to: • <em>Take a comprehensive approach to defining the site location and infrastructure needs, based on the City’s land use policies and overall growth framework of Centers Corridors and Wedges (GDP I1-A)</em>; • <em>Pursue sites that encourage and facilitate redevelopment of abandoned/underutilized sites and vacant sites (GDP E2-A)</em>; • <em>Encourage infill and redevelopment to take advantage of existing infrastructure (GDP I4-B)</em>; • <em>Identify environmentally sensitive areas in site development and discuss protection and mitigations (GDP E1-B)</em>; • <em>Consider the impacts to existing neighborhoods when providing infrastructure (GDP I5-B)</em>; • <em>Minimize impacts to the City’s tree canopy (GDP E3-B)</em>; • <em>Enable site designs that: 1) reduce ground level temperatures; 2) minimize the impact on the environment (GDP E3-A)</em> • <em>Have infrastructure projects address a variety of needs, serve multi-purposes, and take advantage of opportunities to share elements (GDP-I 2-B)</em> • <em>Encourage infill and redevelopment as one strategy to take advantage of existing infrastructure (GDP-I 4-B)</em></td>
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<tr>
<td><strong>Conservation of Water Resources and Protection of Water Quality</strong></td>
<td>Meet the intent of the WaterSense® Best Management Practices &amp; other existing City Ordinances: • <em>Incorporate products &amp; services denoted with the WaterSense® label in design &amp; renovation projects, both potable and irrigation applications.</em> • <em>Participate in Charlotte Water’s Smart Irrigation Program; design for no irrigation landscaping where possible.</em> • <em>Ensure successful completion of the Stormwater Services plan review and approval process. The review will identify opportunities to reduce stormwater pollution in the design, construction and operation of the facilities. Cost savings of pollution prevention features will be identified.</em></td>
</tr>
<tr>
<td><strong>Reduction of Energy Use and Carbon Footprint in facilities and fleet</strong></td>
<td>Meet current energy consumption targets which at the time of Policy adoption are: • <em>Energy consumption calculation 8-12% below ASHRAE 90.1, 2010 as a minimum reduction and shall strive for higher reductions.</em> • <em>Eligible projects shall achieve Designed to Earn Energy Star Certification.</em></td>
</tr>
<tr>
<td>Priority</td>
<td>Goals &amp; Established Policies</td>
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<tr>
<td>Maximization of Transportation Alternatives available to employees</td>
<td>Meet the intent of City Environmental and Infrastructure General Development Policies (GDP) and other existing City Ordinances.</td>
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<td>The GDP guides staff and the community to:</td>
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<td>- Facilitate development of well-designed and well-connected mixed/multi-use development (GDP E2-B);</td>
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<td>- Locate buildings where transportation facilities, public utilities and services already exist, or are planned, in order to minimize impacts of undeveloped areas (GDP E2-C);</td>
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<td>- Integrate plans for existing and future bus routes/service improvements and expansions with adopted future land use policies (GDP E2-E);</td>
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<td>- Enable site designs and construction practices that: 1) facilitate the use of alternative modes of transportation (GDP E3-A)</td>
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<tr>
<td>Leading by Example and Encourage Local Sustainable Industry</td>
<td>The GDP guides staff and the community to:</td>
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<td>- Make environmental protection a priority in infrastructure design and construction while balancing advantages of the improvements with their environmental impacts (GDP-I 5-A).</td>
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<td>- Consider sustainability (location, design, materials, operation) when making infrastructure decisions (GDP-I 5-C)</td>
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<td>- Design and construct public projects to minimize environmental impacts (GDP-E 4-C)</td>
</tr>
<tr>
<td>Protecting Occupant Health, Maximize Productivity and Encouraging Sustainable Employee Behaviors</td>
<td>Goals will be project-specific.</td>
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<tr>
<td>Practicing waste minimization and recycling and implementing environmentally conscious practices in the supply chain</td>
<td>Goals will be project-specific.</td>
</tr>
<tr>
<td>Raising employee awareness of regulatory best practices</td>
<td>Goals will be project-specific.</td>
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</tbody>
</table>
CONTRACT FOR PROFESSIONAL SERVICES

SERVICES:

OWNER:
City of Charlotte

CONSULTANT:
STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG  

CONTRACT FOR  
PROFESSIONAL SERVICES  

This CONTRACT, made and entered into this _______ day of ___________________________2019, ("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 2019-419 for Design Services for HVAC and Generator Replacement for Charlotte-Mecklenburg Government Center and Lighting Design Services for the CMGC Deck, dated September 6, 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 surveying 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: Charlotte Business INClusion Program  
EXHIBIT F: Commercial Non-Discrimination Certification  
EXHIBIT G: Certificate of Insurance
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 Consultant shall perform the services described in Exhibit A attached to this Contract and incorporated herein by reference (“Services”). Unless otherwise provided in Exhibit A, 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 Exhibit B, as amended from time to time during the Contract Period, in performing the Services. All references to days in this Contract (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 LUMP SUM FEES
The Consultant shall be compensated on a lump sum basis for the services listed in this Contract using the fee schedule in Exhibit C, attached hereto and incorporated herein, in the amount of $________.

4.2 HOURLY AND UNIT PRICE BASIS ALLOWANCE
The Consultant shall be compensated on an hourly basis for the services listed in this Contract using the fee schedule in Exhibit C, attached hereto and incorporated herein, in the amount of $________.

4.3 ALLOWANCE FOR OPTIONAL AND UNSPECIFIED ADDITIONAL SERVICES
Additional services shall be performed by the Consultant only after written instructions to do so are received from the City’s Project Manager. Compensation for additional services performed shall be in accordance with the hourly and unit price rates set forth Exhibit C, attached hereto and incorporated herein, and shall not exceed $________. Any expenses associated with these additional services shall be reimbursed at cost.

4.4 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 in an amount not to exceed $________:

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.

4.5 SUMMARY OF FEES AND ALLOWANCES
The maximum cumulative amount paid to the Consultant pursuant to this Contract for all services performed and all reimbursable expenses shall not exceed the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lump Sum Fees</td>
<td>$</td>
</tr>
<tr>
<td>Hourly and Unit Price Fees</td>
<td></td>
</tr>
<tr>
<td>Allowance for Optional/Unspecified Services</td>
<td></td>
</tr>
<tr>
<td>Reimbursables</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL MAXIMUM FEES AND ALLOWANCES

The maximum total fees and charges will not be increased except by a written amendment duly executed by both parties.

4.6 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: David Taylor
City Contact Department: Engineering & Property Management

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.

4.7 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.

4.8 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.

4.9 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.

4.10 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.

4.11 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.

4.12 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.
4.13 **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.

5 **CONTRACT PERIOD**

This Agreement shall commence on the Effective Date and shall continue in full force until _______________. 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:

David Taylor
Chief Maintenance Mechanic
City of Charlotte
Department of General Services - E&PM/CMGC
600 E. 4th Street
Charlotte, NC 28202
704-336-4077
dtaylor@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:

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:
Richard Williams
CMGC Property Manager
City of Charlotte
Department of General Services - E&PM
600 E. 4th Street
Charlotte, NC 28202
704-336-2291
rich.williams@ci.charlotte.nc.us

For the Consultant:

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.
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.

MISCELLANEOUS

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 Statues, and shall require each of its subcontractors to do so as well.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
THIS CONTRACT, entered into as of the day and year first written above for Services, Contract Number 2020xx.

CONSULTANT NAME

By: _________________________________

Signature

_______________________________

Print Name

_______________________________

Title

_______________________________

Date

CITY OF CHARLOTTE

By: _________________________________

Signature

_______________________________

Print Name

_______________________________

Title

_______________________________

Date
EXHIBIT A – SCOPE OF WORK

EXHIBIT B – PROJECT SCHEDULE

Insert Schedule
EXHIBIT C – FEE/COST BREAKDOWN

Hourly and Unit Price Rates

<table>
<thead>
<tr>
<th>Prime Consultant Name</th>
<th>Job Classification</th>
<th>Employee Name</th>
<th>Hourly Rate</th>
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<th>Employee Name</th>
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<th>Sub 2 Name</th>
<th>Job Classification</th>
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<th>Hourly Rate</th>
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</table>
EXHIBIT D – KEY PERSONNEL

Insert org chart or list of key personnel
EXHIBIT E – CHARLOTTE BUSINESS INCLUSION PROGRAM

CBI Policy adopted April 8, 2013

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

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

The City’s Charlotte Business INClusion (CBI) Policy is incorporated into and made a part of this solicitation and the resulting contract (the “Agreement”). Copies of the CBI Policy may be obtained by:

Internet: www.charlottebusinessinclusion.com

Mail: Charlotte Business INClusion Office
600 East 4th Street
Charlotte, North Carolina 28202

Capitalized terms used in this document shall have the meanings set forth in Part A, Appendix 1 of the CBI Policy. Each reference to “Consultant”, “you” or “your” in these provisions refers to any entity that submits a bid, proposal or statement of qualifications on a City contract, and any entity that enters into a contract with the City.

2. THE COMMITTED M/W/SBE GOAL FOR THIS AGREEMENT IS AS FOLLOWS:

<table>
<thead>
<tr>
<th>Goal</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>MBE GOAL</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE GOAL</td>
<td>0.00%</td>
</tr>
<tr>
<td>SBE GOAL</td>
<td>10.00%</td>
</tr>
<tr>
<td>Aggregate M/W/SBE GOAL</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

Consultant must submit proposed SBE utilization for this Agreement on CBI Form 3 (Subcontractor/Supplier Utilization Commitment Form) listing subcontractors and suppliers that will be providing goods or services.

Consultant must state the projected dollar amount for each SBE listed on their CBI Form 3 and indicate the total dollar value of M/W/SBE participation for the contract. In the event Consultant has no M/W/SBE participation, Consultant is still required to indicate this on CBI Form 3 by entering the word or number zero. Blank forms will be deemed to represent zero participation.

SBEs listed on CBI Form 3 must be actively certified with the City of Charlotte as of bid date and must be performing a Commercially Useful Function as defined in Part A of the CBI Policy. M/WBEs listed on CBI Form 3 must be actively certified as a Historically Underutilized Business by the State of North Carolina with the business headquarters in the Charlotte Combined Statistical Area.

Consultant must submit a separate CBI Form 4 for each M/W/SBE identified on CBI Form 3 within three (3) Business Days after the City requests it.

3. CBI POLICY PROVISIONS APPLICABLE AFTER CONTRACT AWARD

If you are awarded a Agreement with the City, note in particular the following Sections of the CBI Policy regarding post contract award requirements and activity:

1. Compliance with committed M/W/SBE subcontracting goal throughout the Agreement (Part D, Section 2)
II. Performance of a commercially useful function and affiliate status (Part D, Section 2)  
III. Terminating or Replacing an M/W/SBE on a contract (Part D, Section 5)  
IV. New Subcontractor Opportunities (Part D, Section 6)  
V. Renewals (Part D, Section 7)  
VI. Payments to M/W/SBEs (Part D, Section 8)  
VII. Utilization Reports and Documentation of Payments (Part D, Section 9)  
VIII. Remedies and Liquidated Damages (Part D, Section 14)  

4. CBI CONTRACT PROVISIONS  
The following provisions are incorporated into the contract.  

Charlotte Business INClusion. The City has adopted a Charlotte Business INClusion Policy ("CBI Policy"), which is posted on the City’s website and available in hard copy form upon request to the City.  

The parties agree that:  

I. The terms of the CBI Policy, as revised from time to time, together with all rules and guidelines established, are incorporated into this Agreement by reference; and  
II. A violation of the CBI Policy shall constitute a material breach of this Agreement, and shall entitle the City to exercise any of the remedies set forth in Part D of the CBI Policy, including but not limited to liquidated damages; and  
III. Without limiting any of the other remedies the City has under the CBI Policy, the City shall be entitled to withhold periodic payments and final payment due to the Contractor under this Agreement until the City has received in form satisfactory to the City all claim releases and other documentation required by the City’s CBI Policy, and in the event payments are withheld under this provision, the Contractor waives any right to interest that might otherwise be warranted on such withheld amount under G.S. 143-134.1; and  
IV. The remedies set forth in Part D Section 14 of the CBI Policy shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy; and  
V. The City will incur costs if the Contractor violates the CBI Policy, and such costs are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the City liquidated damages at the rates set forth in Part D of the CBI Policy.  
VI. The Contractor agrees to participate in any dispute resolution process specified by the City from time to time for the resolution of disputes arising from the CBI Policy.  
VII. Nothing in this Section shall be construed to relieve a Contractor from any obligation it may have under N.C. Gen. Stat. 143-134.1 regarding the payment of subcontractors.  

Remedies for Violation of CBI Policy. A violation of the CBI Policy by a Contractor shall constitute a material breach of the Agreement, and shall entitle the City or private owner to:  

I. Exercise all rights and remedies that it may have at law or at equity for violation of the CBI Policy;  
II. Terminate the Agreement for default;  
III. Suspend the Agreement for default;  
IV. Withhold all payments due to the Contractor under the Agreement until such violation has been fully cured or the City and the Contractor have reached a mutually agreeable resolution;
V. Assess liquidated damages as provided in Part D Section 14.2; and/or
VI. Offset any liquidated damages and/or any amounts necessary to cure any violation of the CBI Policy from any retainage being held by the City on the Agreement, or from any other amounts due to the Contractor under the Agreement.

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.

**Liquidated Damages.** The City and the Consultant acknowledge and agree that the City will incur costs if the Consultant violates the CBI Policy in one or more of the ways set forth below, including but not limited to loss of goodwill, detrimental impact on economic development and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Consultant agrees to pay the liquidated damages assessed by the City at the rates set forth below for each specified violation of the CBI Policy. The Consultant further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation:

I. **Failure to meet the SBE Goal.** If the City determines upon completion or termination of an Agreement that the Consultant did not meet the Committed M/W/SBE Goal and that such failure is not otherwise excused under Part D of the CBI Policy, the City may assess the lesser of: (a) $200,000 or (b) the dollar difference between the Committed M/W/SBE Goal that was missed and the Consultant’s actual M/W/SBE utilization toward that Goal. Such amount may be assessed when it becomes apparent that it will not be possible for the Consultant to achieve the Committed M/W/SBE Goal.

II. **Using SBE as a Conduit.** If the Consultant lists an M/W/SBE to receive credit toward a Committed M/W/SBE Goal with knowledge that the M/W/SBE will be acting as a Conduit or will not be performing a Commercially Useful Function reasonably commensurate with the payment amount for which the Consultant will be seeking credit, the City may assess the lesser of: (a) $100,000 per incident or (b) the dollar amount the Consultant indicated that it would pay such M/W/SBE in the M/W/SBE’s contract (or if no contract has been signed, the M/W/SBE’s Letter of Intent).

III. **Wrongful Termination or Replacement of M/W/SBE Services.** If the Consultant terminates or replaces an M/W/SBE in violation of the CBI Policy, the City may assess the lesser of: (a) $50,000 per incident or (b) the dollar amount of the work remaining to be performed by the terminated M/W/SBE at the time it was terminated (or if the M/W/SBE was not terminated because it was never retained, then, the dollar amount that the Consultant indicated it would pay the M/W/SBE in the M/W/SBE’s letter of intent).

IV. **Failure to Comply with CBI Policy upon Termination or Withdrawal by M/W/SBE.** If the Consultant fails to comply with the Modified Good Faith Efforts requirements (Part D, Section 5 of the CBI Policy) in replacing an M/W/SBE that is terminated or withdraws from work on a project, the City may assess the lesser of: (a) $50,000 per incident or (b) the dollar amount of the work remaining to be performed by the M/W/SBE that withdrew or was terminated at the time of the termination or withdrawal.

V. **Failure to Comply with CBI Policy to Add New Subcontractors.** If the Consultant fails to comply with the Modified Good Faith Efforts requirements (Part D, Section 5 of the CBI Policy) in adding new subcontractors to an Agreement, or when the scope of work of the Agreement changes so as to
create a new M/W/SBE subcontracting opportunity, the City may assess the lesser of: (a) $50,000 per incident or (b) the dollar amount of the new or additional work.

VI. **False Statements and Misrepresentations.** If the Consultant makes a false statement or material misrepresentation or material misleading omission regarding any matter relevant to the CBI Policy (including but not limited to information relating to good faith efforts, M/W/SBE utilization, M/W/SBE certification or payments to M/W/SBEs), the City may assess the lesser of: (a) $50,000 per incident or (b) if the misrepresentation relates to payment, the dollar difference between what the Consultant represented and the truth;

VII. **Failure to Respond to Request for Information.** If the Consultant fails to provide any report, documentation, affidavit, certification or written submission required under the CBI Policy within the time period set forth therein, the City may assess $40 per day for each day that such report, documentation or written submission is overdue.

VIII. **Seeking Credit for Use of an Affiliate to Meet the Committed M/W/SBE Goal.** If the City finds a violation of Part D, Section 3 of the CBI Policy due to a Consultant seeking credit for utilizing an M/W/SBE that the City determines to be an Affiliate, the City may assess the lesser of: (a) $75,000 per incident or (b) the dollar amount the Consultant counted towards its Committed M/W/SBE Goal for that M/W/SBE.

### 5. CBI FORMS

You shall submit the following CBI forms within the timeframes indicated below:

<table>
<thead>
<tr>
<th>CBI Form</th>
<th>Submission Requirements</th>
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<tbody>
<tr>
<td><strong>CBI Form 3: Subcontractor/Supplier Utilization Commitment.</strong></td>
<td>Identifies all M/W/SBE and non-SBE subcontractors and suppliers to be utilized on the contract and dollar amounts committed to M/W/SBEs. Must be submitted within three (3) Business Days after requested by the City.</td>
</tr>
<tr>
<td><strong>CBI Form 4: Letter of Intent.</strong></td>
<td>Consultant must submit a separate Letter of Intent executed by each M/W/SBE listed on CBI Form that Consultant commit to utilize on the Agreement. Must be submitted within three (3) Business Days after requested by the City.</td>
</tr>
<tr>
<td><strong>CBI Form 6: Payment Affidavit.</strong></td>
<td>Consultant shall provide with each pay request to the City a payment affidavit showing payments made to all subcontractors, suppliers, manufacturers, brokers, and / or members of a joint venture in connection with the contract. Upon award of contract, CBI Form 6 must be submitted to the City with each pay request, for duration of Project. For Final Payment period, check the box indicating “Final Payment”</td>
</tr>
</tbody>
</table>

All CBI Forms and a full list of M/W/SBE vendors are available on-line at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com)
CBI FORM 3 - Subcontractor / Supplier Utilization Commitment (page 1 of 2)

Project Name:  
Consultant Name: **Consultant Name**

List below all **M/W/SBEs** that you intend to use on this Agreement.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Description of Work / Materials</th>
<th>Indicate either “M”, “S”, and/or “W”</th>
<th>VMS (Vendor) #</th>
<th>Total Projected Utilization ($)</th>
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</table>

| Total MBE Utilization | 0.00%  | $0  |
| Total SBE Utilization  | 0.00%  | $0  |
| Aggregate M/SBE Utilization | 10.00% | $0  |

**Total Agreement Amount**

*Continue on next page*
List below all **non-M/W/SBEs** that you intend to use on this contract

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Description of Work / Materials</th>
<th>NIGP Commodity Code</th>
<th>VMS (Vendor) #</th>
<th>Projected Utilization (if known) ($)</th>
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**Adding subcontractors or suppliers after submitting this form**

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

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

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

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

**Signature**

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

(a) It has complied with all provisions of the CBI Policy; and
(b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute a breach of contract.

---

**Signature of Authorized Official**

**Printed Name**

**Title**

**Submittal Date**
CBI FORM 4 - Letter of Intent

| Project Name: |

**To be completed by PRIME (Consultant)**

<table>
<thead>
<tr>
<th>Name of PRIME:</th>
<th>Vendor #:</th>
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<tr>
<td>Address:</td>
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<tr>
<td>Contact Person:</td>
<td>Email:</td>
</tr>
<tr>
<td>Telephone:</td>
<td>Fax:</td>
</tr>
</tbody>
</table>

I, the Prime, by checking “YES”, will provide a Quick Pay Commitment to this M/W/SBE for the work identified below. I have submitted, either previously or with this Form 4, a copy of said Agreement. **YES**

Identify in complete details the scope of work to be performed or item(s) to be supplied by the M/W/SBE.

_______________________________________________________________________________________________________

**Cost of work to be performed by M/W/SBE:** $TBD

**To be completed by M/W/SBE**

<table>
<thead>
<tr>
<th>Name of M/W/SBE:</th>
<th>Vendor #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Email:</td>
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<td>Telephone:</td>
<td>Fax:</td>
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</table>

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

<table>
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<tr>
<th>PRIME:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>Signature and Title</td>
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</table>

<table>
<thead>
<tr>
<th>M/W/SBE:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature and Title</td>
<td></td>
</tr>
</tbody>
</table>
CBI FORM 6 - Payment Affidavit - Subconsultant / Supplier Utilization
To be submitted with each request for payment from the City of Charlotte. Copy this form as needed.

Project Name: 

Consultant Name: Consultant Name Payment / Invoice # 

Agreement Number: 2020xx Invoice Amount: $ 

Payment Period: From To City Department E&PM 

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

Section 1: Payments to SUBCONTRACTORS (M/W/SBEs and Non-M/W/SBEs)
Complete the chart below for all subcontractors used on the Project/Agreement regardless of dollar amount. All subcontractors must be registered in the City’s Vendor Management System. The “Cumulative Payments” column shall include all payments made to the subcontractor including the “Payments this Period” amount.

<table>
<thead>
<tr>
<th>Vendor #</th>
<th>Subcontractor’s Name</th>
<th>NIGP Code</th>
<th>Description of Work Performed</th>
<th>Payments this Period</th>
<th>Cumulative Payments</th>
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Section 2: Payments to SUPPLIERS
All suppliers providing goods under City contracts must be listed on the Sales Tax Statement submitted with each pay request. The City may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the City’s Vendor Management System and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

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

This ______ day of ___________ 20 _____

Signature ___________________________ Print Name and Title ___________________________
EXHIBIT F – COMMERCIAL NON-DISCRIMINATION CERTIFICATION

Project: _______________________________
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: _______________________________

Contract Number: 2020xx
EXHIBIT G – CERTIFICATE OF INSURANCE

Insert COIs