REQUEST FOR PROPOSALS

RFP2017-277

MAINTENANCE, REPAIR, OPERATIONS, INDUSTRIAL
AND RELATED SUPPLIES AND SERVICES

Date Issued:

March 23, 2017
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1 REQUEST FOR PROPOSALS (RFP) INSTRUCTIONS

1.1 Public Notice
The City of Charlotte (City) is soliciting proposals from qualified Suppliers (Providers) to enter into Agreements for a complete list of Maintenance, Repair and Operations (MRO) and Industrial Supplies in a Retail and Wholesale environment, and other Related Supplies and Services (herein Supplies and Services) offered by the Provider, including a complete and comprehensive offering of Supplies and Services for the maintenance, repairs and operations of Electrical, HVAC, Plumbing, Glazing and other MRO needs, and related Supplies and Services.

In addition, to provide a complete range of Services available through Provider(s) such as, but not limited to, installation, training services, and any other related services that may be offered by Provider(s). Such Services may be required for any property or facilities owned and/or maintained by the City of Charlotte Engineering & Property Management Department (City).

The City is responsible for the operations and maintenance of approximately 300 municipal facilities, structures, and assets, with a range of uses including office, warehouse, storage, parking, overhead walkways, vehicle maintenance, communication towers and public safety. Maintaining these facilities requires a myriad of commodity items and services.

Information related to this solicitation, including any addenda, will be posted to the City’s Website at http://charlottenc.gov/epmcontracts. For questions related to this RFP, contact:

Kate Reid, CLGPO, Contracts Administrator
City of Charlotte
Engineering & Property Management
531 Spratt Street, Charlotte, NC 28206-2963
Direct Phone: (704) 336-3641; Main Phone: (704) 336-2291
Email: kreid@charlottenc.gov

1.2 Project Overview
Objectives:
Provide comprehensive, competitively solicited Agreement(s) offering Supplies and Services for the use of the City of Charlotte’s Engineering & Property Management – Building Services Department.

- Achieve cost savings for both Provider(s) and the City through a single competitive solicitation that minimizes further need for multiple bids or proposals;
- Reduce the administrative and overhead costs of Provider(s) and the City through state of the art ordering and delivery systems, where available; and
- Provide the City with environmentally responsible supplies and services.

General Definition of Supplies and/or Services:
Providers are to propose the broadest possible selection of MAINTENANCE, REPAIR, OPERATIONS SUPPLIES, INDUSTRIAL SUPPLIES, and RELATED SUPPLIES AND SERVICES offered. The intent of this solicitation is to provide the City with a comprehensive offering of Supplies and Services to meet
various needs. Therefore, Providers shall possess demonstrated experience in providing the Supplies and Services as defined in this RFP, including but not limited to:

- **Maintenance, Repair, Operations (MRO) Supplies and Related Services (for Installation and Repair)** – A complete and comprehensive offering of wholesale and/or retail MRO Supplies such as appliances, building materials, ceiling tiles, fasteners, flooring, hand held general purpose and power tools, hardware, HVAC, plumbing and electrical repair parts, kitchen and bath cabinets, lighting and replacement lamps, millwork, motors and pumps, paints and coatings, windows, doors and locks, and any other MRO Supplies offered by Provider.

  In addition, a complete range of Services available through the Provider such as, but not limited to, installation, training services and any other related services offered by Provider.

- **Industrial Supplies and Related Services (for Installation and Repair)** – A complete and comprehensive offering of Industrial Supplies such as bearings, power transmissions, motors, hydraulics, pneumatics, gearing, material handling systems, fasteners, general maintenance supplies, fluid power, and any additional related Supplies and services.

  In addition, a complete range of services available through the Provider such as, but not limited to, installation, training services and any other related services offered by Provider.

- **Related Supplies and Services (Including Installation, Repair, and Training Services)** – A complete and comprehensive range of related Supplies and Services offered by Provider including, but not limited to, installation, services for replacements, upgrades, and remodeling in the office and industrial environments related to any of the following (non-inclusive): roofing, gutters, downspouts, HVAC, plumbing, electrical, lighting, exterior decks, exterior siding, windows and doors, interior and exterior painting, weatherization, ADA improvements, and any other environments maintained by the City.

Supplies provided under the Contract(s) resulting from this RFP that require assembly and installation shall be performed by the manufacturers’ certified installers, unless otherwise notified by the City. Provider must provide the names and addresses of each certified installer/subcontractor, as applicable.

All assembly and installation must be performed according to the standards established by the terms, specifications, drawings, and construction notes for each product, and meet manufacturer’s specifications and industry standards. It shall be the obligation of the installer to obtain clarification from the Project Manager concerning questions or conflicts in the specifications, drawings and construction notes in a timely manner as to not delay the progress of the work.

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Estimated Volume:
There will be no minimum quantity of supplies or services required to be purchased under the proposed Agreement(s) resulting from this RFP.

1.3 RFP schedule and Proposal 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</th>
<th>Date/Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertisement of RFP:</td>
<td>March 23, 2017</td>
</tr>
<tr>
<td>Pre-Submittal Meeting:</td>
<td><strong>Wednesday, March 29, 2017 at 9:00 AM</strong></td>
</tr>
<tr>
<td></td>
<td>E&amp;PM Building Services</td>
</tr>
<tr>
<td></td>
<td>531 Spratt Street</td>
</tr>
<tr>
<td></td>
<td>Charlotte, North Carolina 28206-2963</td>
</tr>
<tr>
<td>Deadline for Questions:</td>
<td><strong>Monday, April 3, 2017 @ 5:00 PM</strong></td>
</tr>
<tr>
<td>DUE DATE &amp; TIME FOR PROPOSALS:</td>
<td><strong>Monday, April 10, 2017 at 2:00 PM</strong></td>
</tr>
<tr>
<td>Evaluation Meeting:</td>
<td>Week of April 10, 2017 (anticipated)</td>
</tr>
<tr>
<td>Interviews, if Indicated:</td>
<td>Week of April 10, 2017 (anticipated)</td>
</tr>
<tr>
<td>Selection Announcement:</td>
<td><strong>Monday, April 17, 2017</strong> (anticipated)</td>
</tr>
</tbody>
</table>

Attendance at the Pre-Submittal Meeting is strongly encouraged, but is not mandatory.

Proposals shall be enclosed in a sealed envelope or package, addressed to the City of Charlotte. The name and address of the prospective Provider, the RFP number (RFP2017-277) and RFP title (Maintenance, Repair, Operations, Industrial and Related Supplies and Services), shall be placed on the outside of the package. All items required for a responsive proposal shall be included. It is the sole responsibility of the Proposer to ensure that the proposal package is received no later than the established due date and time at the proper location. Proposals received after the due date and time will not be considered. Proposals submitted by facsimile or other electronic means will not be accepted.

Submit/Deliver to: City of Charlotte
E&PM Building Services
531 Spratt Street
Charlotte, North Carolina 28206-2963
Attn: Kate Reid, CLGPO, Contracts Administrator

If submitted via mail or courier, the outside sealed submission envelope or box must contain the aforementioned information clearly identified on the face of the box or envelope.

If submitted via hand delivery, the submission envelope must be received by the Receptionist on or before the date and time proposals are due or placed inside the bid box which is located in the building lobby.

Each Proposer is solely responsible for the timely delivery of their proposal and accepts all risks of late delivery regardless of fault.
1.4 Evaluation Criteria & Process
Provider(s) will not be considered unless 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.

Evaluation criteria are listed below in relative order of importance:
- Reputation of the Provider and of the Provider’s Supplies or Services;
- Quality of the Provider’s Supplies or Services;
- Product Lines and, as applicable, Services proposed;
- Availability of Supplies or Services in local stock or by special order;
- Extent to which the Supplies or Services meet the City’s needs;
- Pricing;
- Acceptance of the Terms of the Contract;
- Charlotte Business INClusion (MWSBE) inclusion efforts; and
- Responsiveness, relevance and readability of proposal package.

MWSBE Utilization
The City maintains a strong commitment to the inclusion of MWSBEs in the City’s contracting and procurement process. For the purposes of this RFP, the City will consider a Service Provider’s MWSBE certification and/or MWSBE subcontracting inclusion efforts. To count towards a Department MWSBE Goal, MWSBE certified Service Providers and/or their MWSBE subcontractors must meet the following certification criteria prior to proposal submission:
- Be designated in the City’s Vendor List as a City of Charlotte certified SBE; and/or
- Be designated in the City’s Vendor List as a City of Charlotte registered MBE or WBE

While MWSBE utilization is an important factor in the evaluation process for this RFP, MWSBE utilization is one criterion considered in the totality of all criteria listed in this section.

The City will appoint an evaluation committee whose responsibilities will include performing independent technical evaluations of each proposal 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 proposal. The City reserves the right to obtain clarification or additional information with any Provider in regards to its proposal.

The City reserves the sole right to select the most qualified Provider(s) on basis of best overall value that is most advantageous to the City.

The City reserves the right to award in whole or in part, by item or group of items, or to make multiple awards, where such action serves the City’s best interest.

The City reserves the right to contract with additional Providers, at the City’s sole discretion, in cases where awarded Providers are of an insufficient number or skill-set to satisfy the City’s needs or to ensure adequate competition on any project or Task Order work for the services aspect of this solicitation.
Proposers will be notified of the selection results. Final recommendation of any selected Provider is subject to the approval of City Council or City officials.

1.5 Proposal Format
Interested firms must submit two (2) bound original proposals, signed in ink (preferably blue) by a company official authorized to make a legal and binding offer, shall be complete and unabridged and shall not refer to any other copy of the signed/sealed original for any references, clarifications, or additional information, including all required forms; and one (1) CD or USB-drive containing a digital copy of the complete proposal package in PDF format, exclusive of printed Catalogs or Pricing Sheets, if unavailable in PDF format.

Proposals are limited to a maximum of thirty (30) single-sided numbered pages. Required forms, tabs/dividers, and coversheet do not count towards the page limit. Tab 9 Catalogs and/or Pricing Sheets do not count towards the page limit and do not necessarily have to be bound within the proposal document if infeasible.

Proposals shall be printed on 8-1/2" x 11" paper; although pages containing organizational charts, matrices, or large diagrams may be printed on larger paper in order to preserve legibility. Type size shall be no smaller than 11 points for narrative sections, but may be reduced for captions, footnotes, etc. as required while maintaining legibility. Submissions that do not conform to the requirements listed herein may be removed from consideration at the sole discretion of the City of Charlotte.

Regardless of delivery method, submissions must be submitted in a sealed envelope. Please submit packages comprised of materials that are easily recyclable or reusable.

1.6 Proposal Content
Proposals shall be arranged as follows:

1.6.1 Coversheet: General Information

A. Describe the firm’s understanding of the RFQ and interest in this Project and the unique advantage the firm and team brings.

B. State any conflicts of interest your firm or any key team member may have with this Project.

C. Describe any unresolved claims, disputes, and/or current litigation.

1.6.2 Tab 1: Company

1-a. 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 with the City.
1-b. Provide the total number and location(s) of sales persons employed by your company employed in the City of Charlotte, Mecklenburg County, and immediately adjacent surrounding Counties.

1-c. Describe how any of the local sales persons might conceivably be utilized in servicing this contract.

1-d. If applicable, provide the total number and location(s) of regional and national sales persons employed by your company who might conceivably be utilized in servicing this contract.

1-e. If applicable, describe how any of the regional and national sales persons might conceivably be utilized in servicing this contract.

1.6.3 Tab 2: Distribution

2.a. Describe how your company proposes to distribute the supplies including (a) City Employee pick-ups at local retail storefront(s) or wholesale warehouse(s); and (b) deliveries by your firm or its subcontractors to City facilities or warehouse sites.

2.b. Provide the number, size and location(s) of your company’s distribution facilities, warehouses and wholesale and/or retail network as applicable.

2.c. Provide the number and location of support centers (if applicable).

2.d. Describe your company’s ability to business with manufacture / dealer / distribution organizations that are M/SWBE certified (as described in this RFP).

See http://charlottenc.gov/mfs/cbi/Pages/default.aspx to locate MWSBE Certified Vendors.

2.e. If applicable, describe other ways your company can be sensitive to the City’s desire to utilizes MWSBE companies, such as local delivery services or for other services.

2.f. If applicable, provide details on any products or services being offered by your company where the manufacturer or service provider is either a small or MWBE business as defined by the Small Business Administration (not necessarily local). Provide product/service name, company name, and S/MWBE designation.

1.6.4 Tab 3A: Supplies (As Applicable)

3A.a. Provide a list of manufacturers your company represents.

3A.b. Provide a description of the supplies to be provided by the major product category set forth in Exhibit A. The primary objective is for each Provider to provide a complete range of products so that the City may order a range of Supplies as appropriate for needs.
3A.c. State your normal delivery time (in hours or days) and any options for expediting delivery for supplies in stock locally and, if applicable, for those in stock (not special order) at any other regional/national location.

3Ad. State backorder policy. Do you fill or kill order and require the City to reorder if item is backordered?

3Ae. State your company’s return policies, restocking fees (if and when applicable), and procedure for returning supplies.

3Af. Describe any special programs that your company offers that will improve the City’s ability to access products, on-time delivery, or other innovative strategies.

3Ag. Describe the capacity of your company to broaden the scope of any Contract resulting from this RFP to keep the product offerings current and ensure that latest products, standards, and technology for Maintenance, Repair, Operating Supplies, Industrial Supplies, and Related Services are available.

1.6.5 Tab 3B: Services (As Applicable)

3B.1 As applicable, provide a description of the Services to be provided.

3B.2 As applicable, describe those Services that are performed by your company versus those that are performed by subcontractors.

3B.3 As applicable, describe the process and requirements of qualifying in-house personnel and subcontractors who will be performing services for your Company. Include details on the types of background screening performed and any other required qualifications.

1.6.6 Tab 4: Quality

4.a. Describe your company’s ongoing quality control processes to ensure qualified in-house personnel and, if applicable, subcontractor(s).

4.b. Describe your problem escalation process.

4.c. How are customer complaints measured and categorized? What processes are in place to know that a problem has been resolved?

4.c.d Describe and provide information regarding your company’s Supplies’ or Services’ warranties.

1.6.7 Tab 5: Administration

5.a. Describe your company’s capacity to employ telephone, ecommerce, etc. with a specific proposal for processing orders.
5.b. State which forms of ordering allow the use of a procurement card (P-card) and the accepted banking (credit card) affiliation.

5.c. Describe your company’s internal management system for processing orders from point of customer contact through delivery and billing.

5.d. If applicable, describe your company’s ecommerce capabilities.
   i. Include details about your company’s ability to create punch out and accept orders electronically (cXML, OCI, etc.)
   ii. Provide detail on where your company has integrated with any public agency’s ERP system in the past and include some details about the resources you have in place to support the integrations.

5.e. If applicable, list any existing cooperative purchasing programs, including the entity’s name(s), contact person(s), contact information, annual volume, and contract number(s) and term date(s).

5.f. Describe the capacity of your company to provide management reports, i.e. commodity histories, procurement card histories, green spend, etc.

5.g. Please provide any suggested improvements and alternatives for doing business with your company that will make this arrangement more cost effective for your company and the City.

1.6.8 Tab 6: Environmental

6.a. Provide a brief description of any company environmental initiatives, including your company’s environmental policies and/or strategies, your investment in being an environmentally preferable product leader, and any resources dedicated to your environmental strategy, including staff.

6.b. Describe your company’s process for defining, verifying, and labeling green/sustainable supplies and services in your offering. Explain how you can help the City navigate toward the green products in your offering through website filters, keyword searches, displaying eco-logos, etc.

6.c. If applicable, list supplies in your offering that have any third-party environmental certifications, such as:

(a) Biodegradable Products Institute (BPI®) (e.g. compostable bags, food service ware, etc.); (b) Consortium for Energy Efficiencysm (lamps); (c) Cradle to Cradle® (e.g. building materials, construction adhesives, paint); (d) Design Lights Consortium (DLC®) (e.g. LED lighting equipment); (e) ENERGY STAR® (e.g. appliances, HVAC and lighting equipment); (f) Green Seal (e.g. cleaners, hand soap, janitorial paper products, paint); (g) Master
Painters Institute (MPI®) Green Performance Standard (paints and coatings); (h) NEMA® Premium Efficiency (e.g. motors, ballasts); (i) Scientific Certification Systems (SCS) FloorScore™ (e.g. carpet, flooring, flooring adhesives, underlayment, etc.); (j) Scientific Certifications Systems (SCS) Indoor Advantage™ (building materials, furniture, etc.); (k) UL GREENGUARD (e.g. adhesives, flooring, insulation, sealants, etc.); (l) UL EcoLogo® (cleaners, deodorizers, hand soaps and sanitizers, floor polish and strippers, etc.); (m) USDA Biobased (lubricants, building materials, etc.); (n) US EPA Safer Choice (cleaners, hand soaps, deicers, floor maintenance chemicals); and/or (o) US EPA WaterSense® (water efficient fixtures, toilets, etc.).

6.d. If applicable, does your company have a chemicals policy? Do you restrict any chemicals or concern in your supplies beyond what is required by federal and state laws? Does your company label products that are on the California Prop 6.5 list of chemicals that are known to the State of California to cause cancer, birth defects, or other reproductive harm?

6.e. Does your company label any of the supplies in your offering that are free of chemicals of concern, such as mercury, lead, PVC (vinyl), phthalates, flame retardants, neonic pesticides, etc. If yes, what to do you in this area?

6.f. Does your company provide links to products’ SDS/MSDS sheets and/or Health Product Declaration of Environmental Product Declaration Forms?

6.g. Describe your company’s recycling services. Describe any buy back or take back options offered for supplies potentially sold on a potential Contract resulting from this RFP such as batteries, mercury-containing equipment, paint, chemicals, etc. Describe your company’s efforts to reduce or reuse packaging (or avoid difficult to recycle packaging such as polystyrene foam) and minimize the environmental footprint in the shipping process.

6.h. What percentage of your offering is environmentally preferable and what are your plans to improve this offering?

1.6.9 Tab 7: Additional Information

Please use this opportunity to describe any/all other features, advantages and benefits of your organization that you feel will provide additional value and benefit to the City.

1.6.10 Tab 8: Required Forms

Required Forms 1 through 3 provided with this RFP.
1.6.11 **Tab 9: Pricing & Ordering**

The City anticipates awarding a one (1) year Contract with the option for four (4) additional one year extensions unless the Provider objects in writing at least ninety (90) days prior to the beginning of the extension term. Refer to **Exhibit A**.

9.a. Does the capability exist to access an on-line catalog reflecting Contract pricing of all products? If so, please describe your firm’s ability to provide this service.

9.b. Can orders be placed via internet, phone, fax or email for “will call” pick up or delivery in addition to “point of sale”? If so, please describe your firm’s ability to provide this service.

9.c. Describe your firm’s ability to provide detailed management reporting for the City for any or all of the following categories:

   i.  Sales Dollars.
   ii. Sales histories by manufacturer, item description, part number, quantity, NIGP codes, or any other.
   iii. Procurement Card.

9.d. Please furnish pricing per **Exhibit A** in whatever format available for any or all of the Categories your firm is interested in.

9.e. Please indicate if the current pricing (as of the proposal due date for this RFP) cannot be guaranteed for one year (12 months) from date of Award (Anticipated April 17, 2017 Council date).

   If not, and the City does recognize that pricing fluctuates and cannot be fixed for some Categories, describe how pricing will be calculated.

9.f. Do you anticipate that your firm will be willing to renew for up to four (4) additional one year extensions?

   If so, describe how pricing will be calculated.

   **NOTE:** Pricing will be transferred to **Exhibit D** for Contract(s) awarded pursuant to this RFP.

END OF SECTION ONE
2 REPRESENTATIONS, CONDITIONS, AND OTHER REQUIREMENTS

2.1 Communications
All communication of any nature with respect to this RFP shall be addressed to the Contracts Administrator identified in this RFP. With the exception of communications with the Contracts Administrator and Charlotte's Business Inclusion Officer for this RFP, prospective Providers and their staffs are prohibited from communicating with elected City officials, City staff and any selection committee member regarding this RFP or submittals from the time the RFP was released until the selection results are publicly announced. Violation of this provision may lead to disqualification of the Provider’s proposal for consideration.

2.2 Duties and Obligations of Providers in the RFP Process
Interested Providers are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting a proposal. Providers must perform its 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. Providers are expected to promptly notify the City in writing to report any ambiguity, inconsistency or error in this RFP. 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 RFP, addenda may be issued and posted at the City's official website at [http://charlottenc.gov/epmcontracts](http://charlottenc.gov/epmcontracts).

Any requests for information or clarification shall be submitted in writing to the Contracts Administrator listed in this RFP by the deadline for questions.

2.4 No Collusion, Bribery, Lobbying or Conflict of Interest
By responding to this RFP, the Provider shall be deemed to have represented and warranted that the proposal is not made in connection with any competing Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud. Furthermore, the Provider certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or lobbied, or attempted to bribe or lobby, an officer or employee of the City in connection with this RFP.

2.5 Public Records
Upon receipt by the City, each proposal 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. Proposals 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 Provider shall take the following precautions: (a) any trade secrets submitted by the Provider shall be submitted in a separate, sealed envelope marked “Trade Secret – Confidential and Proprietary Information – Do Not Disclose Except for the Purpose of Evaluating this Proposal,” and (b) the same trade
secret/confidentiality designation shall be stamped on each page of the trade secret materials contained in the envelope.

In submitting a proposal, each Provider 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 Provider 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 Provider has designated as a trade secret. Any Provider that designates its entire proposal or pricing as a trade secret may be disqualified from consideration.

2.6 **Cost of Proposal Preparation**
The City shall not be liable for any expenses incurred by any Provider responding to this RFP. Providers submitting a proposal in response to this RFP agree that the materials and submittals are prepared at the Provider’s own expense with the express understanding that the Provider cannot make any claims whatsoever for reimbursement from the City for the costs and expense associated with preparing and submitting a proposal. Each Provider 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 Provider responding to this RFP.

2.7 **Advertising**
In submitting an RFP, Proposer 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 Provider and any subcontractor(s) 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 **Financial Capacity; Insurance Requirements**
The selected Provider must have the financial capacity to undertake the work and assume associated liability. The selected Provider will be required to provide certificates of insurance evidencing coverage for automobile liability in the minimum amount of $1,000,000; commercial general liability in the minimum amount of $1,000,000; and workers’ compensation insurance as required by North Carolina statutes.

2.10 **Ownership of Work Products**
The City shall have exclusive ownership of all intellectual property rights in all documents and other work product prepared by, for, or under the direction of the selected Provider pursuant to any Contract under this RFP (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 Provider a
CITY OF CHARLOTTE  
ENGINEERING & PROPERTY MANAGEMENT  

SECTION 2  
REPRESENTATIONS, CONDITIONS, AND OTHER REQUIREMENTS

royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform the Contract.

2.11 City Rights and Reservations
The City expects to select one or more Providers. The City reserves the right to contact any Provider 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 RFP as issued with an Addendum. The City, at its sole discretion, reserves the right to reject any or all responses to the RFP, to cancel the RFP, to re-advertise for new RFP responses either with identical or revised specifications, or to accept any RFP 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 RFP 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 Provider(s) on the basis of best overall proposal(s) most advantageous to the City. The City is therefore not bound to accept a proposal on the basis of lowest price. 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.

2.12 Contract
The contents of this RFP and all provisions of the successful proposal(s) 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 RFP process and proposal(s) received with additions or deletions made at the discretion of the City as a result of the RFP process.

a. INDEFINITE QUANTITY
The Contract will be a unit price contract for an indefinite amount of Supplies and Services to be furnished at specified times, or as ordered. In some cases, indefinite quantity contracts may state a minimum quantity that the City is obligated to order.

b. UNIT PRICE
The Contract awarded is for a unit price when Supplies and Service needs are based upon indefinite quantities, and where orders will be based on actual needs that may exceed or be less than projections. All expenditures under a unit price contract are contingent upon appropriations having been made by Charlotte City Council.

2.13 Charlotte Business INClusion
The City of Charlotte is committed to promoting opportunities for maximum participation of certified MWSBEs on City funded contracts at both the Prime and Subcontract level. In regards to this effort, SBE participation will be required in order to meet goal compliance. For SBE participation to count towards a Goal, 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 Charlotte Business INClusion to determine eligibility to participate in the program.

Providers are highly encouraged to consider any and all possibilities for MWSBE participation. A complete list of City certified SBEs is available at www.charlottebusinessinclusion.com.

END OF SECTION TWO
3 CONTRACT GENERAL TERMS AND CONDITIONS
The contract(s) resulting from this RFP will include the General Terms and Conditions herein, subject to modifications during contract development and final execution thereof. The referenced exhibits may, or may not, be included with this RFP.

3.1 INCORPORATION OF EXHIBITS
The following exhibits are attached to this Contract and are incorporated into and made a part of this Contract:

EXHIBIT A: Product Categories
EXHIBIT B: City of Charlotte Facilities Management Requirements (For Services and Deliveries of Supplies)
EXHIBIT C: FEMA Standard Terms and Conditions for Contracts and Grants
EXHIBIT D: Pricing Information

3.2 DEFINITIONS
ACCEPTANCE refers to the receipt and approval by the City of a Deliverable in accordance with the acceptance process and criteria set forth in this Contract.

AGREEMENT refers to the Contract created after the successful completion of the competitive solicitation process and selection process, wherein the City of Charlotte Engineering & Property Management Department may utilize the agreement to purchase Supplies and Services necessary for the maintenance and repairs of City-maintained properties.

CBI refers to the Charlotte Business INClusion office of the City of Charlotte.

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 this Contract.

COMPANY refers to the person or entity that provides Supplies and/or Services. (See also Provider & Supplier.)

CONTRACT refers to this written agreement executed by the City and the Provider for the Supplies and Services as outline herein.

CONTRACT PERIOD refers to the Contract terms and renewal options.

DELIVERABLES refer to all supplies, tasks, reports, information, documents and other items, which the Provider is required to complete and deliver to the City in connection with this Contract.

DEPARTMENT refers to ENGINEERING & PROPERTY MANAGEMENT, 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 any component thereof, and which are published or provided to the City by the Provider or its subcontractors, including without limitation all catalogs, end-use manuals, training manuals, guides and other materials related to or for use with the Deliverables.

ENVIRONMENTALLY PREFERABLE SUPPLIES refers to Supplies that have a lesser or reduced effect on human health and the environment when compared to supplies that serve the same purpose. This comparison may consider raw materials, acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the supplies.

GOODS refer to anything purchased other than services or real property.

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

MWSBE refers to SBEs, MBES, and WBEs, collectively.

PERSONNEL refers to all staff provided by the Provider or its subcontractors.

PROPOSAL refers to the response to this RFP.

PROVIDER refers to the successful Proposer(s) that enter(s) into a Contract with the City for all or part of the Supplies and/or Services covered by this RFP. (See also Company & Supplier.)

PROVIDER PROJECT MANAGER refers to the specified Provider employee representing the best interests of the Provider for this Contract.

PURCHASE ORDER refers to the written document pursuant to this Contract and created by the City to the Provider formalizing a transaction, such as a description of the Supplies or Services, cost, delivery schedule, terms of payment, and transportation as a result of a Work Order created by Engineering & Property Management’s Building Services Division.

RFP refers to the Request for Proposal.

SBE refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.

SERVICES refer to the services, including but not limited to training, warranty and maintenance, installation and repairs to be performed by the Provider pursuant to this Contract.

SPECIFICATIONS AND REQUIREMENTS refer to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Deliverables and Services which
3.3 DESCRIPTION OF SERVICES & SUPPLIES

3.3.1 SERVICES
The Provider shall perform the services described in Section 1, as applicable, and incorporated herein by reference (the “Services”). Unless otherwise provided, the Provider shall furnish all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Services.

The Provider will comply with the schedule(s) set forth by means of individual Task Order(s) (provided by means of Work Orders and Purchase Orders) during the Contract Period, in performing the Services. The parties agree that time is of the essence in having the Provider provide the Services specified. All references to days in any Task Order pursuant to this Contract 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.

3.3.2 SUPPLIES
The Provider shall make available the Supplies described in Section 1, as applicable, and incorporated herein by reference (the “Supplies”).

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3.4 COMPENSATION

3.4.1 TOTAL MAXIMUM FEES AND CHARGES
The City agrees to pay the Provider for actual Supplies provided and/or Services performed as outlined in this Contract using the pricing and rates set forth in Section 1, provided that the maximum total amount payable under this Contract to the Provider shall not exceed the total Contract amount.

The maximum total Contract amount will not be increased except by a written Amendment duly executed by both parties.

3.4.2 INVOICES
Each invoice sent by the Provider shall reference the appropriate Contract number, work order (WO) number, purchase order (PO) number and PO line number for each item on the invoice. The City prefers not to receive invoices for Supplies and Services paid for via a purchase card (P Card). When presenting an invoice that has been paid via a P Card, indicate the total dollar amount due as “$0.00”.

The City is not tax exempt from sales tax. The Provider shall include all applicable State and County sales taxes on the invoice and not combined with the cost of the services.

Payment of invoices shall be due within thirty (30) days after the City has received all of the following: (a) an accurate, properly submitted invoice; (b) all reports, if applicable, due for the month covered by the invoice; and (c) any other information reasonably requested by the City to verify the charges contained in the invoice.

a. INVOICES FOR SUPPLIES
Invoices are preferred on a daily basis but shall be sent according to Provider’s invoicing policies however, under no circumstances, more than sixty (60) days after purchase. The Provider shall submit an invoice to the City stating the nature and quantity of Supplies, accompanied by proper supporting documentation as the City may require.

b. INVOICES FOR SERVICES
Each month, the Provider 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, specifically including any North Carolina sales taxes (and to which County) paid for Supplies used to accomplish the Services performed.

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

**OPTION 1 (Preferable):**
The Provider shall address as shown in Option 2 and email all invoices to: cocap@charlottenc.gov.
Provider shall not mail invoices that have been sent via e-mail.

OR
OPTION 2:
The Provider shall mail one copy of each invoice to:
CITY OF CHARLOTTE AP
Attn: E&PM (+ Project Manager Name)
PO BOX 37979
CHARLOTTE NC 28237-7979

Regardless of method transmitted, each invoice must contain the following information:

Contract Number:  <<CONTRACT NUMBER>>
Work Order Number:  <<WORK ORDER NUMBER>>
Purchase Order Number:  <<PURCHASE ORDER NUMBER>>
City Contact Name:  <<CITY PROJECT MANAGER NAME>>
City Contact Department:  ENGINEERING PROPERTY & MANAGEMENT

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

As a condition of payment, the Provider must invoice the City for supplies or services within sixty (60) days after such supplies are delivered or services performed. The Provider waives the right to payment for any Supplies or Services that have not been invoiced to the City within 60 days after such Supplies were delivered and accepted or Services were rendered.

3.4.3 RESERVED

3.4.4 COST OVERRUNS

As pertains to Services, if it appears during the course of the Services that the total maximum agreed upon fees and charges authorized by a Purchase Order may be exceeded, the Provider shall immediately notify the City’s Project Manager in writing. The total maximum fees and charges shall not be exceeded except by written amendment to this Contract. Any work performed without prior written approval shall be at the Provider’s expense.

3.4.5 ACCOUNTING AND AUDITING

The Provider shall maintain complete and accurate records, using Generally Accepted Accounting Principles (GAAP), of all costs related to this Contract. 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 Provider or any of his payees in connection with this Contract. 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 Contract.

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 Contract, for the duration of the Services,
and until three (3) years after the date of final payment by the City to the Provider pursuant to this Contract.

The City’s agent or authorized representative shall have access to the Provider’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 Provider reasonable advance notice of planned inspections. If, as the result of an audit hereunder, the Provider is determined to have charged the City for amounts that are not allocable or verifiable, the Provider shall promptly reimburse the City for said amount.

3.4.6 WITHHOLDING OF PAYMENTS
As pertains to Services, The parties agree that the City shall be entitled to withhold payments, including final payment, due to the Provider under this Contract 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.

3.4.7 PAYMENT AFFIDAVITS
As pertains to Services, 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 purpose, 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 Contract, the Provider agrees to provide to the City with each invoice for payment submitted under this Contract, a written payment affidavit detailing the amounts paid by the Provider to subcontractors and suppliers in connection with this Contract (“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 Contract 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 Contract, and shall entitle the City to: (a) withhold payment of any amounts due the Provider (whether under this Contract or otherwise); or (b) exercise any other remedies legally available for breach of this Contract; 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 Provider require certain suppliers to be registered in the City’s Vendor Registration System, and may withhold payment of any amounts due the Provider in the event the Provider fails to comply with such request.

3.4.8 PROMPT PAYMENT TO SUBCONTRACTORS
As pertains to Services, the Provider shall pay subcontractors for satisfactory performance of their subcontracts within seven (7) days after the City has paid the Provider for such work. If the Provider withholds any retainage pending final completion of any subcontractor’s work, the
Provider is required to pay the retainage so withheld within seven (7) days after such subcontractor completes his or her work satisfactorily.

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

3.5 CONTRACT PERIOD
The Contract term shall be for a period of one (1) year from the date of award.

The City, at its option, may extend the Contract for up to four (4) additional one-year extensions, unless the Provider objects in writing at least ninety (90) days prior to the beginning of the extension term.

3.6 PROVIDER’S RESPONSIBILITIES

NOTICE TO PROCEED
The successful Proposer shall not commence any work or make shipment under this RFP until duly notified by receipt of an executed Contract from the City.

All orders will be placed by City designated personnel on an as needed basis for the quantity required at the time during the term of the Contract. Orders will be placed by means of a Purchase Order, or other approved authorization method.

DELIVERY TIME
When delivery time is requested in an order for Supplies or Services against a Contract resulting from this RFP, (whether in the form of a specific delivery date or maximum number of days for delivery) time is of the essence. Each order shall be deemed a binding commitment of the Proposer to meet the delivery time stated therein unless the Proposer specifically takes exception. If such delivery time is not met, the City shall be entitled to terminate the Contract immediately for default and/or exercise any other remedies available at law or in equity.

3.7 DUTY OF PROVIDER TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES
The Provider shall identify and request in writing from the City in a timely manner: (a) all information reasonably required by the Provider to perform the Services; (b) a list of the City’s personnel whose presence or assistance reasonably may be required by the Provider to perform the Services; and (c) any other equipment, facility or resource reasonably required by the Provider to perform the Services. Notwithstanding the foregoing, the Provider shall not be entitled to request that the City provide information, personnel or facilities other than those specifically required for the City to provide pursuant to this RFP. The Provider shall not be relieved of any failure to perform under this Contract by virtue of the City’s failure to provide
any information, personnel, equipment, facilities or resources: (a) that the Provider failed to identify and request in writing from the City pursuant to this Section; or (b) which the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Provider shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Provider of any claim or defense it may otherwise have based on the City’s failure to provide such information, personnel, facility or resource.

3.8 POINTS OF CONTACT; NOTIFICATIONS

3.8.1 CITY PROJECT MANAGER

The duties of the City Project Manager include:

a. Examining the documents submitted by the Provider and expediting decisions concerning the documents in order to avoid unreasonable delay in the progress of the Provider’s Services or payment for Supplies or Services provided;

b. Ensuring that the Provider fulfills all obligations for deliverables outlined in the Contract;

c. Coordinating the City’s resource assignment as required to fulfill the City’s obligations pursuant to this Contract;

d. Promptly respond to the Provider’s Project Manager when consulted in writing or by email with respect to any issues; and

e. Acting as the City’s point of contact for all aspects of the Contract including contract administration and coordination of communication with the City’s staff.

The City Project Manager is:

<<NAME OF PERSON>>
<<WORKING TITLE>>
<<PROVIDER NAME>>
<<STREET ADDRESS>>
<<CITY, STATE ZIP>>
<<TELEPHONE>>
<<FAX>>
<<EMAIL>>

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

The City shall be allowed to change staffing for the City Project Manager position on one (1) business day’s notice to the Provider.

3.8.2 PROVIDER PROJECT MANAGER

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

a. Coordination of Project schedules and the Provider’s resource assignment based upon the City’s requirements and schedule constraints;
b. Management of 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, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Provider’s specialist resources that may be needed to supplement the Provider’s normal implementation staff;

d. Acting as the Provider’s point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;

e. Facilitation of review meetings and conferences between the City and the Provider’s staff when scheduled or requested by the City;

f. Communication among and between the City and the Provider’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 Provider’s Services in the manner contemplated by this contract (with “timely” meaning immediately after the Provider 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 coordinate the Services.

The Provider Project Manager is:

<<NAME OF PERSON>>
<<WORKING TITLE>>
<<PROVIDER NAME>>
<<STREET ADDRESS>>
<<CITY, STATE ZIP>>
<<TELEPHONE>>
<<FAX>>
<<EMAIL>>

3.8.3 NOTICES AND PRINCIPAL CONTACTS.

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

For the City:
<<NAME OF PERSON>>
PROJECT MANAGER
CITY OF CHARLOTTE
531 SPRATT STREET
CHARLOTTE, NC 28206-2963
For the Provider:
<<NAME OF PERSON>>
<<WORKING TITLE>>
<<PROVIDER NAME>>
<<STREET ADDRESS>>
<<CITY, STATE ZIP>>
<<TELEPHONE>>
<<FAX>>
<<EMAIL>>

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.

3.9 REMOVAL, REPLACEMENT AND PROMOTION OF PROVIDER PERSONNEL
The City will have the right to require the removal and replacement of any personnel of the Provider or the Provider’s subcontractors who are assigned to perform services to the City. The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Provider.

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

If the Provider gets more than 7 days behind in completing any service required by this Contract, the Provider will devote all personnel assigned to the Service Task Order to working on a first priority basis.

3.10 PROGRESS REPORTS
If required as part of the Services assigned by Task Order, the Provider shall prepare and submit to the City bi-weekly (or at such other times as may be mutually agreed upon) written progress reports, which accomplish each of the following:

a. Update the schedule, indicating progress for each task and Service;

b. Identify all information, personnel, equipment, facilities and resources of the City that will be required for the Provider to perform the services for the subsequent month (if applicable);

c. Identify and report the status of all tasks and services that have fallen behind schedule;

d. Identify and summarize all risks and problems identified by the Provider, 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; and
f. For each risk and problem identified, state the impact on the schedule.

3.11 QUALITY

Unless this Contract specifically states otherwise for a particular item, all components used to manufacture or construct any supplies, materials or equipment or Products provided under this Contract shall be: (a) new; (b) the latest model; (c) of the best quality and highest grade workmanship; and (d) in compliance with all applicable federal, state and local laws, regulations and requirements. By “new”, the City means that the item has been recently produced and has not been previously sold or used. Discontinued models will not be considered unless specifically requested in the best interest of the City.

Whenever this Contract states that a Supply or Service provided shall be in accordance with laws, ordinances, building codes, underwriter’s codes, applicable A.S.T.M. regulations or similar expressions, the requirements of such laws, ordinances, etc., shall be construed to be minimum requirements that are in addition to any other requirements that may be stated in this RFP.

3.12 ACCEPTANCE OF SUPPLIES AND/OR SERVICES

3.12.1 SUPPLIES

Supplies furnished under this Contract shall remain the property of the Provider until the City physically inspects, actually uses and accepts the Supplies. The City shall have the right to reject any and all Supplies that are not as ordered or do not meet the requirements outlined below. Such Supplies shall be returned to the Provider at Provider’s expense.

Continued incidents of rejection shall entitle the City to terminate this Contract upon written notice to the Provider and return such Supplies (and any related goods) to the Provider at the Provider’s expense.

The Provider must supply a complete shop repair manual, parts manual, service manual and operator’s manual when available from the manufacturer and/or when required for the safe operation and maintenance of a particular unit. In addition, instructions for the operation of the unit must be provided.

All Supplies shall carry the manufacturer’s standard warranty and/or guarantee. The warranty and/or guarantee shall be provided when the Supplies or related Services are delivered.

If any item supplied fails to perform satisfactorily within the first thirty (30) days, it shall be replaced by a new one of the same make and model. Temporary equipment shall be provided within twenty-four (24) hours while replacement is being processed.

3.12.2 SERVICES

If the City Project Manager is not satisfied that the Services have been met, a notice of rejection (a “Rejection Notice”) shall be submitted to the Provider by the City Project Manager that specifies the nature and scope of the deficiencies that the City wants corrected. Upon receipt of a Rejection Notice, the Provider 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 Provider 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 Contract for default without further
obligation to the Provider and without obligation to pay for the defective work.

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

In the event the Services provided under this Contract do not comply with this Contract, the City
reserves the right to cancel the Service and rescind any related purchase of Supplies upon
written notice to the Provider. The remedies stated in this section are in addition to and without
limitation of any other remedies that the City may have under this Contract, at law or in equity.

3.13 NON-EXCLUSIVITY
The Provider acknowledges that it is one of several Providers of Supplies and Services to the City
and the City does not represent that it is obligated to contract with the Provider for any
particular project. The City reserves the right to award multiple contracts for the Supplies and
Services required by this Contract if the City deems multiple Contracts to be in the City’s best
interest.

3.14 REPRESENTATIONS AND WARRANTIES OF PROVIDER
3.14.1 GENERAL WARRANTIES
SUPPLIES
a. The Provider warrants that all Supplies shall carry the manufacturer’s standard warranty
and/or guarantee and Provider shall pass through to the City any manufacturer’s standard
warranties. The warranty and/or guarantee shall be provided when the Supplies or related
Services are delivered;

b. All Supplies furnished under this Contract shall conform to the requirements of this Contract
and shall be free from defects in design, materials, and workmanship;

c. The warranty period for Supplies shall be for an initial period of twelve (12) months (or
longer, if available from manufacturer) and commence upon acceptance by the City;

d. The Provider warrants shall indicate on the Price sheet the duration of the warranty and any
applicable limitations or conditions which may apply;

e. The Provider agrees to provide all labor and parts required to remove, repair or replace, and
reinstall any such defective Supplies which becomes or is found to be defective during the
term of this warranty; and

f. The Provider shall guarantee the Supplies comply with all applicable regulations.

SERVICES
a. The warranty period for workmanship shall be for an initial period of twelve (12) months
and commence upon acceptance by the City;
b. The Provider 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 this contract;

c. All Services performed by the Provider and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;

d. Neither the Services, nor any deliverables provided by the Provider under this Contract will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party. The Provider shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this contract;

e. The Provider and each employee provided by the Provider to the City for this contract shall have the qualifications, skills and experience necessary to perform the Services described;

f. All information provided by the Provider about each Provider is accurate; and

g. Each Provider is an employee of the Provider, and the Provider shall make all payments and withholdings required for by law for the Provider for such Provider.

3.14.2 ADDITIONAL WARRANTIES

The Provider further represents and warrants that:

a. It is a legal entity and if incorporated, duly incorporated, validly existing and in supplies 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 Contract;

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

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 Contract;

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

f. The performance of this Contract by the Provider and the Supplies or Services provided by the Provider shall 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).

3.15 OTHER OBLIGATIONS OF THE PROVIDER

3.15.1 SUPPLIES DELIVERED OR SERVICES PERFORMED ON CITY PREMISES

The Provider will, whenever on the City premises, obey all instructions and City policies that the Provider is made aware of with respect to performing work on the City premises. The Provider and subcontractors performing Services or making deliveries of Supplies for the City shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. The Provider and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.
3.15.2 RESPECTFUL AND COURTEOUS BEHAVIOR
The Provider shall assure that its employees interact with City employees and with the public in a courteous, helpful and impartial manner. All employees of the Provider 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 Provider.

3.15.3 REGENERATION OF LOST OR DAMAGED DATA
If the Provider loses or damages any data in the City’s possession, the Provider shall, at its own expense, promptly replace or regenerate such data from the City machine-readable supporting material, or obtain, at the Provider’s own expense, a new machine-readable copy of lost or damaged data from the City data sources.

3.15.4 REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES
In the event that the Provider causes damage to the City equipment or facilities, the Provider 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 Provider’s action.

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

3.16 REMEDIES.
3.16.1 RIGHT TO COVER
If the Provider fails to meet any completion date or resolution time set forth in this contract, the City may take any of the following actions with or without terminating this contract, and in addition to and without limiting any other remedies it may have:

a. Employ such means as it may deem advisable and appropriate to perform itself or obtain the services from a third party until the matter is resolved and the Provider is again able to resume performance under this contract; and

b. Deduct any and all expenses incurred by the City in obtaining or performing the services from any money then due or to become due to the Provider and, should the City’s cost of obtaining or performing the services exceed the amount due the Provider, collect the amount due from the Provider.

3.16.2 RIGHT TO WITHHOLD PAYMENT
If the Provider breaches any provision of this contract, the City shall have a right to withhold all payments due to the Provider until such breach has been fully cured.

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3.16.3 SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF
The Provider agrees that monetary damages are not an adequate remedy for the Provider’s failure to provide the Services as required by this contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Provider hereby consents to an order granting specific performance of such obligations of the Provider in a court of competent jurisdiction within the State of North Carolina. The Provider further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Provider breaches this contract.

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

3.17 TERMINATION OF CONTRACT
3.17.1 TERMINATION FOR CONVENIENCE
The City may terminate this contract for convenience at any time, for any reason or no reason, by giving thirty (30) days’ prior written notice to the Provider. In the event this contract is terminated pursuant to this Section, the Provider shall continue performing the Services until the termination date designated in the termination notice. As soon as practicable after written notice of termination without cause, Provider shall submit a statement to the City showing in detail the Services performed and/or Supplies provided under this Contract through the date of termination. In the event of termination without cause pursuant to this Section, the City agrees to: pay the Provider for services rendered and/or supplies provided through the termination date at the rates set forth in Exhibit D. The foregoing payment obligation is contingent upon: (a) the Provider having fully complied with this Section; and (b) the Provider 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 Service.

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

3.17.2 TERMINATION FOR DEFAULT
By giving written notice to the Provider, the City may terminate this contract upon the occurrence of one or more of the following events:

a. The Provider fails to complete a particular Task Order by the completion date set forth in this contract;
b. The Provider makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this contract, or any covenant, agreement, obligation, term or condition contained in this Contract;
c. The Provider takes or fails to take any action which constitutes grounds for immediate termination under the terms of this contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this contract, or failure to provide the proof of insurance as required by this contract;
d. The Provider violates or fails to perform any covenant, provision, obligation, term or condition contained in this contract, provided that, unless otherwise stated in this contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (a) such default is reasonably susceptible to cure; and (b) the other party cures such default within fifteen (15) days of receipt of written notice of default from the non-defaulting party;

e. The Provider attempts to assign, terminate or cancel this contract contrary to the terms hereof; or

f. The Provider ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of the Provider’s assets or properties.

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

Notwithstanding anything contained herein to the contrary, upon termination of this Contract by the Provider for default, the Provider shall continue to perform the services required by this Contract: (a) for six (6) months after the date of written termination notice; (b) until the date on which the City completes its transition to a new Provider; or (c) until a date specified by the City in the written termination notice.

3.17.3 CANCELLATION OF ORDERS AND SUBCONTRACTS

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

3.17.4 AUTHORITY TO TERMINATE

The following persons are authorized to terminate this Contract 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 Contract.

3.17.5 OBLIGATIONS UPON EXPIRATION OR TERMINATION

Upon expiration or termination of this Contract, the Provider shall promptly return to the City (a) all files, documentation, media, related material and any other material and equipment that is owned by the City; (b) all deliverables that have been completed or that are in process as of the date of termination; and (c) a written statement describing in detail all work performed with respect to Supplies and Services which are in process as of the date of termination.

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3.17.6 NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS
Termination of this Contract shall not relieve the Provider of the obligation to pay any fees, taxes or other charges then due to the City, nor relieve the Provider of the obligation to file any daily, monthly, quarterly or annual reports nor relieve the Provider from any claim for damages previously accrued or then accruing against the Provider.

3.17.7 TRANSITION SERVICES UPON TERMINATION
Upon termination or expiration of this Contract, the Provider shall cooperate with the City to assist with the orderly transfer of the services provided by the Provider to the City. Prior to termination or expiration of this Contract, the City may require the Provider to perform and, if so required, the Provider shall perform certain transition services, necessary to shift the services of the Provider 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 Providers and subcontractors of the Provider;
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 Provider.

3.18 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 by a written, dated agreement executed by both parties which expressly references and is attached to this Contract (an “Amendment”). The Amendment shall set forth in detail: (a) the Change requested, including all modifications of the duties of the parties; (b) the reason for the proposed Change; and (c) 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 Provider shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

3.19 RELATIONSHIP OF THE PARTIES
The relationship of the parties established by this Contract is solely that of independent contractors. Nothing contained in this Contract shall be construed to (a) give any party the power to direct or control the day-to-day administrative activities of the other; or (b) 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.
3.20 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 Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the “Intellectual Property”). The Provider hereby assigns and transfers all rights in the Intellectual Property to the City. The Provider 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 Provider hereby appoints the City as attorney in fact to execute all such assignments and instruments and agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

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

The Provider 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 Provider further represents and warrants that it has the right to grant the rights granted to the City in this Section on behalf of the Provider 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 Provider 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 Provider has no responsibility for any Discrepancies in the Intellectual Property that are beyond the Provider’s reasonable control. The Provider shall maintain a hard copy of the Intellectual Property for three (3) years from the date it completes all work under this Contract. If requested, the Provider shall provide the City with the Intellectual Property in electronic form, and the City agrees to release the Provider 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 Provider’s reasonable control.

3.21 RESERVED

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3.22 INDEMNIFICATION
To the fullest extent permitted by law, the Provider 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 by any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (a) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Services or any Supplies or deliverables provided to the City pursuant to this Contract (“Infringement Claims”); (b) seeking payment for labor or materials purchased or supplied by the Provider or its subcontractors in connection with this Contract; (c) arising from the Provider’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Provider 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 (d) arising from any claim that the Provider or an employee or subcontractor of the Provider 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 and each of the City’s officers, officials, employees, agents and independent contractors (excluding the Provider); and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interests and other liabilities (including settlement amounts).

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

This Section 22 shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

3.23 SUBCONTRACTING
The Provider given Contract award shall be the “prime” and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Provider shall remain “prime” and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. Any subcontract entered into by Provider shall name the City as a third party beneficiary. The City retains the right to approve all subcontractors.

3.24 INSURANCE
Throughout the term of this Contract, the Provider shall comply with the insurance requirements described in this Section. In the event the Provider fails to procure and maintain each type of insurance required by this Contract, or in the event the Provider fails to provide the City with the required certificates of insurance, the City shall be entitled to terminate this Contract immediately upon written notice to the Provider.
3.24.1 GENERAL REQUIREMENTS
The Provider shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this Section and the City has approved such insurance. The Provider 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 Provider shall name the City as an additional insured under the commercial general liability policy required by this Section.

The Provider’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 Provider’s operations under this agreement. The Provider 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 Provider and/or subcontractor providing such insurance.

Prior to execution of this Contract, the Provider 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 Provider shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Contract, 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 Provider shall not relieve the Provider of its obligation to meet the insurance requirements set forth in this Contract.

Should any or all of the required insurance coverage be self-funded/self-insured, the Provider 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 Contract 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 Provider from meeting all insurance requirements or otherwise being responsible for the subcontractor.

3.24.2 TYPES OF INSURANCE
Provider shall obtain and maintain during the life of this Contract, with an insurance Provider rated not less than “A” by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:
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 Provider and any subcontractor performing work under this Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Provider, 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 Contract. The City of Charlotte shall be listed as an additional insured under this coverage.

Workers’ Compensation Insurance. The Provider 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.

3.25 BACKGROUND CHECKS

A background check, performed by CMPD, may be required for employees and subcontractors of Provider assigned to provide deliveries of Supplies or Services at certain City facilities.

The Provider will be notified by the City if any individual(s) will not be allowed on those City Facilities. No information discovered in the Background Check will be conveyed to the Provider or subcontractor(s).

3.26 COMMERCIAL NON-DISCRIMINATIATION

As a condition of entering into this agreement, the Provider 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 Provider shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers in connection with a City contract or contract solicitation process, nor shall the Provider retaliate against any person or entity for reporting instances of such discrimination. The Provider 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 Provider understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the Provider from participating in City contracts or other sanctions.
As a condition of entering into this Contract, the Provider agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Provider has used on City contracts in the past five years, including the total dollar amount paid by Provider on each subcontract or supply contract. The Provider further agrees to fully cooperate in any investigation conducted by the City pursuant to the City’s Non-Discrimination Policy as set forth in Section 2, Article V of the City Code, 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 Provider understands and agrees that violation of this clause shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Provider from participating in City contracts and other sanctions.

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

3.27 MISCELLANEOUS
3.27.1 ENTIRE AGREEMENT
Any Contract awarded from this RFP is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.

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

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 Provider; or

b. The power to direct or cause the direction of the management and policies of the Provider whether through the ownership of voting securities, by Contract or otherwise.

3.27.3 GOVERNING LAW, JURISDICTION AND VENUE
North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). Any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all
objections 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.

3.27.4 BINDING NATURE AND ASSIGNMENT
This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

3.27.5 CITY NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES
The City shall not be liable to the Provider, 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 Contract.

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

3.27.7 NO PUBLICITY
No advertising, sales promotion or other materials of the Provider or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City. Notwithstanding the foregoing, the parties agree that the Provider 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.

3.27.8 NO BRIBERY OR LOBBY
The Provider certifies that to the best of its knowledge, information, and belief, neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or lobbied, or attempted to bribe or lobby, an officer or employee of the City in connection with this Contract.

3.27.9 APPROVALS
All approvals or consents required under this Contract must be in writing.

3.27.10 WAIVER
No waiver of any provision of this Contract 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 Contract 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 Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.
3.27.11 SURVIVAL OF PROVISIONS
All provisions of this Contract which by their nature and effect are required to be observed, kept or performed after termination of this Contract shall survive the termination of this Contract and remain binding thereafter, including but not limited to the following:
Section “Taxes”
Section “Representations and Warranties of Provider”
Section “Termination of Contract”
Section “City Ownership of Work Product”
Section “Indemnification”
Section “Points of Contacts; Notifications”
Section “Miscellaneous”

3.27.12 SET OFF
The City shall be entitled to set off and deduct from any amounts owed to the Provider pursuant to this Contract all damages and expenses incurred or reasonably anticipated as a result of the Provider’s breach of this Contract.

3.27.13 FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES
The Provider agrees to be aware of and comply with all applicable local, state and federal ordinances, statutes, laws, rules and regulations. The Provider further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers’ compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work. The Provider and any subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the facilities or work site areas under this contract.

3.27.14 TAXES
Except as specifically stated elsewhere in this Contract, the Provider shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services. The Provider consents to and authorizes the City to collect any and all delinquent taxes and related interest, fines, or penalties of the Provider by reducing any payment, whether monthly, quarterly, semi-annually, annually, or otherwise, made by the City to the Provider pursuant to this Contract for an amount equal to any and all taxes and related interest, fines, or penalties owed by the Provider to the City. The Provider 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 Provider from filing an appeal of the assessment of the delinquent tax if such appeal is within the time prescribed by law.

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

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

3.27.17 FORCE MAJEURE
The Provider shall not be liable for any failure or delay in the performance of its obligations pursuant to this Contract and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder, 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 Provider shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as: (a) such Force Majeure Event continues; and (b) the Provider continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

The Provider shall promptly notify the City by telephone or other means available (to be conveyed 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 Provider from performing its obligations for more than thirty (30) days, the City may terminate this Contract.

3.28 DISPUTE RESOLUTION
It is understood and agreed that projects subject to NCGS 143-128(g-h) requires that disputes arising under a Contract 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 supplies 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).

3.28.1 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 Contract 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.

3.28.2 For purposes of this Article the following definitions shall apply:
   a. Party or Parties refers to the parties listed in Section 29.3 of this Article; and
   b. Project means (Services) project pursuant to this Contract.

3.28.3 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): Provider, independent contractor(s) of the City, surety(ies), subcontractor(s), and supplier(s).

3.28.4 The Provider 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 Contract, and this 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.

3.28.5 The following disputes are not subject to mediation: (a) a dispute seeking a non-monetary recovery; and (b) a dispute seeking a monetary recovery of $15,000 or less.

3.28.6 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.

3.28.7 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.

3.28.8 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.
3.28.9 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.

3.28.10 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.

3.28.11 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.

3.28.12 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.

3.28.13 The provisions of this Article are subject to any other provision of this Contract 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.

3.28.14 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.

3.29 IRAN DIVESTMENT ACT
The Provider certifies that: (a) 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; (b) it will not take any action causing it to appear on any such list during the term of this Contract; and (c) it will not utilize any subconsultant/subcontractor that is identified on any such list to provide Supplies or Services hereunder.

END OF SECTION THREE
Form 1 – Execution of Proposal

The person executing the Proposal, on behalf of the Provider, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the Provider 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 Provider has not been convicted of violating North Carolina General Statute 133-24 within the last three years, and that the Provider intends to do the work with its own bona fide employees or subcontractors and is not proposing for the benefit of another Provider.

Submission of a response to this RFP constitutes certification that the Provider is 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 Proposal, 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 Proposal, including its forms and other documents, delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts.

Type of Provider: □ Sole Proprietor
□ Partnership
□ Corporation __________________________ (identify the State of incorporation)
□ Limited Liability Provider __________________________ (identify the State of incorporation)
□ Joint Venture
(if joint venture, complete this “Proposal Submission” sheet for each joint venture Provider and identify the “Name of Joint Venture” on each sheet)

NAME OF JOINT VENTURE: _________________________________________________________

Provider Legal Name: ____________________________________________________________

Mailing Address: __________________________________________________________________

City/State/Zip: __________________________________________________________________

Phone: __________________ Email: _____________________________________________

Printed Name: __________________ Title: __________________________________________

Signature: ____________________________________________

Proposal is valid for one-hundred-eighty (180) days from the Proposal due date.
**Form 2 – Subcontractor / Supplier Utilization Commitment**

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>Maintenance, Repair, Operations, Industrial and Related Supplies and Services</th>
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<tbody>
<tr>
<td>Provider Name:</td>
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</table>

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

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

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

<table>
<thead>
<tr>
<th>Subconsultant’s Name</th>
<th>Description of work / materials</th>
<th>City Vendor #</th>
<th>Projected SBE Utilization ($)</th>
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</table>

**Total SBE Utilization** % $

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

Project Name: Maintenance, Repair, Operations, Industrial and Related Supplies and Services

Provider’s Name: 

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

1. In preparing its bid/proposal, the Provider 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 certification, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, or supplier on the basis of race, ethnicity, gender, age, religion, national origin, marital status, familial status, sexual orientation, gender identity, gender expression, or disability or any other unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.

3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid/proposal submitted with this certification and terminate any contract awarded based on such bid/proposal. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Provider 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 Provider 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 in connection with this Contract. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the bid/proposal submitted by the consultant/bidder and to terminate any contract awarded on such bid/proposal. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Provider to any remedies that are allowed thereunder.

5. As part of its bid/proposal, the Provider shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Provider in a legal or administrative proceeding alleging that the Provider discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

6. As a condition of submitting a bid/proposal to the City, the Provider 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: 

Date: 
4 EXHIBITS

Exhibit A:  
Product Categories, Product Pricing, and Procurement Requirements

Exhibit B:  
City of Charlotte Facilities Management Requirements  
(For Services & Deliveries of Supplies)

Exhibit C:  
FEMA Standard Terms and Conditions for Contracts and Grants

Exhibit D:  
Pricing Information
EXHIBIT A – PRODUCT CATEGORIES, PRODUCT PRICING AND PROCUREMENT REQUIREMENTS

PRODUCT CATEGORIES

This Solicitation is to establish and Agreement (Contract or Contracts) for the acquisition of the following products (Supplies). The category descriptive examples below are not to be considered restrictive, but rather, provide a general, non-inclusive, description of the category. These are standard in use by the City of Charlotte Engineering & Property Management Department.

All products offered shall be new, unused and of the latest design and technology.

The intent is for each Proposer to submit their complete product line so that the City may order a wide array of product as appropriate for their needs. You may propose any or all of these categories.

4.A1. **Category 1: Appliances**
Large appliances: refrigerators, washers, dryers, dishwashing machines, stoves, cooktops, range hoods and ovens; TVs, DVR’s, small appliances: mixers, toasters, microwave ovens, food processors, disposals, trash compactors, and all ancillary supplies, tools, and components.

4.A2. **Category 2: Building Materials**
Lumber (dimensional and timber), millwork, roofing, siding, plywood, paneling, hardwood, trim, molding, fencing, decking, gates, brick, block, doors, windows, bagged goods (concrete, mortar, sand, or asphalt), drywall, rebar, acoustical tiles, rain gutters, garage door openers, insulation, and all ancillary supplies, tools, and components.

4.A3. **Category 3: Electrical and Lighting**
Ballasts, ceiling fans, circuit breakers and fuses, conduit (⅜”-2”) galvanized heavy wall rigid steel, rigid aluminum, intermediate metal, and EMT, fittings (including, but not limited to, straps, couplings, elbows, locknuts), disconnect switches, flexible steel and U.A. liquid-tight flexible steel cable (⅜”-1”) and fittings, fasteners, lamps, lighting and repair parts, lugs, outlet boxes, panel boxes and load centers, service heads, tapes, wire, wirenuts, wiring devices and dimmers, and other related components.

4.A4. **Category 4: Groundskeeping Supplies**
Shovels, rakes, axes, hoes, hoses, nozzles, insect control, sprinkler/irrigation equipment and supplies and all ancillary supplies, tools, and components.

4.A5. **Category 5: Hardware**
Fasteners (nuts/bolts, screws, washers, rivets, nails), builders hardware (hinges, gate hardware, barrel bolts/hasps, corner braces, shelf brackets, closet hardware, springs), threaded rod/steel shapes, anchors, padlocks, lock sets, wheels, casters, ball bearings, rope, chain, metal stock, dry cell batteries, fire extinguishers, signs, cabinet hardware, mail boxes, safes, drop boxes, weatherization products, and all ancillary supplies, tools, and components.

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Equipment, package units, evaporative coolers, tools, parts, ducting, air filtration, thermostats, portable and fixed heaters, fans, and all ancillary supplies, tools, and components.

4.A7. **Category 7: Kitchen and Bath Cabinets**
Kitchen cabinets, bath vanities, countertops, medicine cabinets, mirrors, and all ancillary supplies, tools, and components.

4.A8. **Category 8: Janitorial Supplies**
Cleaners, soaps, waxes, strippers, polishes, vacuums, brooms, mops, buckets, gloves, carts, paper goods, and all ancillary supplies, tools, and components.

4.A9. **Category 9: Motors/Pumps**
Fractional and full horse, starters, pulleys, belts, fans, motor controls, and all ancillary supplies, tools, and components.

4.A10. **Category 10: Paints and Coatings**
All types of paints and coatings, wall paper, caulking, spray equipment, aerosol paints, pressure washers, sand blasters, finishes, abrasives, epoxy, cleaners, drywall supplies, tarps, compounds, adhesives, accessories, and all ancillary supplies, tools, and components.

4.A11. **Category 11: Plumbing**
Equipment, parts, piping and fittings, water heaters, pumps, furnaces, disposals, pneumatic piping, filters, commodes, urinals, sinks, bathtubs, showers, shower doors, faucets, flow metering, valves, water conditioning equipment, water dispensing equipment, salt, and all ancillary supplies, tools, and components.

Hand-held (electric, battery, or pneumatic operated), including accessories, testing and measuring tools, carts and hand trucks, work benches, tool cabinets, ladders, and all ancillary supplies and components.

4.A13. **Category 13: Tools, Power-Type**
Electric or gas operated, mobile or stationary, bench or floor mounted, including accessories, and all ancillary supplies and components.

4.A14. **Category 14: Flooring and Window Coverings**
All flooring, including but not limited to, vinyl plank, VCT, vinyl tile, ceramic tile, hardwood, carpet tile, carpet and cove base; blinds, shades, screens, window glass, mirrors, parts, and all ancillary supplies, tools, and components.

4.A15. **Category 15: Miscellaneous**
Including, but not limited to: shelving (metal or wood composite), safety and emergency equipment, first aid supplies, conditioning salt, scaffolding (purchased), packaging supplies, communication supplies, office products, and property management products.

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4.A16. **Category 16: In Store Services**
Including, but not limited to: glass cutting, pipe threading, planning services (flooring and cabinet), verbal technical advice, special orders, rental equipment, etc.

4.A17. **Category 17: Industrial Products/Services**
Bearings, motors, fluid sealing, gearing, power transmissions, pumps, hose fabrication, hydraulic repair, gearbox repair, rubber services, conveyor systems, and other industrial products and services.

4.A18. **Product Pricing**
4.A18.1 Retail
Pricing shall be a fixed percentage (%) off marked price at the POS; not a percent off list. The City will consider other retail pricing options.

4.A18.2 Wholesale
Pricing shall be a fixed percentage (%) off catalog pricing by Product Category. The City will consider other retail pricing options.

4.A18.3 Rebate on Sales
If this pricing option is offered, describe your firm’s ability to provide this service.

4.A18.4 Related Products and Services (Installation and Repair Services) Pricing
   i. The City shall receive a detailed written quotation for all services to be performed, and product(s) to be provided.
   ii. All quotations shall be for a “not to exceed” amount.

4.A19. **Procurement Requirements**
4.A19.1 Shipping Terms
Price(s) and terms shall be F.O.B. Destination at Charlotte, N.C. 28206.

4.A19.2 Brand Names
The City reserves the right to request samples to determine quality and acceptability of Supplies bid by the Provider. In some cases, brand names have been listed in order to define the desired quality and are not intended to be restrictive or to limit competition. Supplies substantially equivalent to those designated shall qualify for consideration.

4.A19.3 Tax (Supplies)
The City is not tax exempt from sales tax. The Provider shall include all applicable State and County sales taxes on the invoice and not combined with the cost of the services.

4.A19.4 Tax (Services)
No tax shall be levied against labor unless required by the State of North Carolina. It is the responsibility of the Provider to determine any and all taxes and include the same in proposal price.

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4.A19.5 **Operating Manuals (If required)**
Upon delivery, Provider shall provide comprehensive operational manuals, service manuals and schematic diagrams, if required by the City.

4.A19.6 **Installation (If required)**
The Provider’s price shall include delivery and installation of all equipment in a complete operating condition unless otherwise instructed otherwise by the City.

4.A19.7 **Training (If required)**
The Provider shall provide a minimum of TBD (hours or days) to completely train City personnel in the use and care of the equipment. All training is to take place on-site in Charlotte, North Carolina, unless otherwise directed.

4.A19.8 **Factory Authorized Maintenance (If required)**
The Provider shall provide for maintenance under this Contract upon acceptance of materials by the City, unless otherwise instructed by the City.

4.A19.9 **Factory Authorized Service (if required)**
i. The Contractor shall have and maintain a local factory authorized service facility within the Charlotte, North Carolina metropolitan area. The facility shall be capable of supplying and installing component parts, troubleshooting, repairing and maintaining the material(s).
ii. Minimum service hours shall be from 8:00 A.M. through 4:00 P.M., Local Time, Monday through Friday.

END OF SECTION EXHIBIT A
EXHIBIT B – CITY OF CHARLOTTE FACILITIES MANAGEMENT REQUIREMENTS (FOR SERVICES & DELIVERIES OF SUPPLIES)


4B1.1 REGULAR HOURS are between 7:00 AM and 4:00 PM, Monday through Friday, excluding City Holidays. Project Specific hours, which may be different from shown above, will be assigned by Task Order.

4B1.2 AFTER HOURS are after 4:00 PM and prior to 7:00 AM, Monday through Friday, excluding City Holidays.

4B1.2 WEEKENDS are any time Saturday or Sunday.

4B1.3 HOLIDAYS are posted CITY HOLIDAYS.

4B1.4 Services shall be available 24 hours per day, 7 days per week, 365 days per year.

4.B2. Provider Requirements (For Service)

4B2.1 Provider shall furnish all labor, supervision, materials, tools, equipment, and anything other necessary to perform the Scope of Work assigned by Task Order, Work Order and Purchase Order Number.

4B2.1 All employees of the Provider shall wear a company uniform identified with the company name consisting of a minimum of one of the following:
   a. Shirt/Blouse; and/or
   b. Vest; and/or
   c. Cap

4B2.2 Provider shall perform the work in a way to minimize disruption of the normal operation of building occupants. Upon completion of work, Provider shall clean and remove from the work site all debris, materials and equipment associated with the work performed.

4B2.3 Provider shall adhere to all regulations, rules, ordinances, and standards set by Federal, State, County and City governments pertaining to safety on the work site.

4.B3. Salvage

Salvage rights shall be evaluated on a project by project basis by the City and shall be determined prior to incorporation of the Provider’s quote for the Task Order being quoted. Salvage rights automatically apply for all work if in the best interest of the City. Salvageable materials, without pre-approved Provider salvage rights, shall be securely stored and are not to be transported off the site unless specifically directed to do so prior to Provider’s quote for the Task Order being quoted. If Provider is given salvage rights, salvageable materials shall be removed daily. No on site storage or Provider’s salvaged materials will be permitted.
4.B4. **Employee Background Checks**

A background check, performed by CMPD, may be required for employees of Provider providing services at certain City facilities.

END OF EXHIBIT B
EXHIBIT C – FEMA STANDARD TERMS AND CONDITIONS
FOR CONTRACTS AND GRANTS

If any purchase made under the Contract(s) resulting from this RFP is funded in whole or in part by Federal Emergency Management Agency (“FEMA”) grants, Provider shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedures set forth in Title 44 of the Code of Federal Regulations, Part 13 (“44 CFR 13”).

In addition, Provider agrees to the following specific provisions:

1. Pursuant to 44 CFR 13.36(i)(1), the City is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Provider’s compliance with the terms of the Contract(s), including but not limited to those remedies set forth at 44 CFR 13.43.

2. Pursuant to 44 CFR 13.36(i)(2), the City may terminate the Contract(s) for cause or convenience in accordance with the procedures set forth in the Agreement and those provided by 44 CFR 13.44.

3. Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Provider shall comply with the following federal laws:
   a. Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor (“DOL”) regulations (41 CFR Ch. 60);
   b. Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
   c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
   d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
   e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
   f. Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation play issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

4. Pursuant to 44 CFR 13.36(i)(7), Provider shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.

5. Pursuant to 44 CFR 13.36(i)(8), Provider agrees to the following provisions regarding patents:
   a. All rights to inventions and/or discoveries that arise or are developed, in the course of or under this Agreement, shall belong to the City and be disposed of in accordance with City policy. The City, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

6. Pursuant to 44 CFR 13.36(i)(9), Provider agrees to the following provisions, regarding copyrights:
   a. If the Contract(s) results in any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:
1. The copyright in any work developed under a grant or contract; and
2. Any rights of copyright to which a grantee or a provider purchases ownership with grant support.

7. Pursuant to 44 CFR 13.36(i)(10), Provider shall maintain any books, documents, papers, and records of the Provider which are directly pertinent to the Contract(s). At any time during normal business hours and as often as City deems necessary, Provider shall permit the City, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions.

8. Pursuant to 44 CFR 13.36(i)(11), Provider shall retain all required records for three years after FEMA or the City makes final payments and all other pending matters are closed. In addition, Provider shall comply with record retention requirements set forth in 44 CFR 13.42.

END OF EXHIBIT C
EXHIBIT D – PRICING INFORMATION

[From Tab 9 of RFP by Proposer upon award of Contract]