



REQUEST FOR PROPOSALS

RFP #354-PD25-34

Project Title: Computer Aided Dispatch (CAD) System Replacement Project

Issue Date: Monday, April 14, 2025

Due Date: Friday May 30, 2025, at 2 PM ET

Issuing Department: Cary Police Department

Direct all inquiries concerning this RFP to:

Carolyn Hemming

Police Operations Project Manager

Email: carolyn.hemming@carync.gov

Table of Contents

1	REQUEST FOR PROPOSALS	2
1.1	Introduction	2
1.2	Purpose and Background.....	2
1.3	Notice to Vendors Regarding RFP Terms and Conditions	5
1.4	RFP Response Timeline	6
1.5	Proposal Questions.....	6
1.6	Proposal Submission Requirements and Contact Information.....	6
1.7	Rights to Submitted Material	7
2	PROPOSALS	7
2.1	Request for Proposal Document.....	9
2.2	Evaluation Criteria	9
2.3	Proposal Evaluation Process	10
2.4	Final Selection.....	10
2.5	Contract Term	11
2.6	Invoices	11
2.7	Notice to Proposers Regarding RFP Terms and Conditions	11
3	SCOPE OF SERVICES.....	11
5	REFERENCES.....	15
	INSTRUCTIONS TO VENDORS.....	17
	TOWN OF CARY PRINCIPAL CONTRACT	19
	APPENDIX	53
	<i>APPENDIX A – Operational Use Cases</i>	
	<i>APPENDIX B – CAD Detailed Requirements</i>	
	<i>APPENDIX C – CAD Technical Requirements Response</i>	
	<i>APPENDIX D – CAD Services Requirements Response Form</i>	
	<i>APPENDIX E – CAD Interfaces List</i>	
	<i>APPENDIX F – Bidder Cost Proposal Template</i>	
	<i>APPENDIX G – Glossary of Terms</i>	

1 REQUEST FOR PROPOSALS

1.1 Introduction

This RFP is an invitation to Bidders to submit Proposals for the provision of a replacement Computer Aided Dispatch (CAD) System to support the processing of 9-1-1 calls for service (CFS) by the Town of Cary's Public Safety Answering Point (PSAP or 'Cary 9-1-1') and its regional first responder partners, as further described in, and in accordance with, this document.

This RFP is issued by the Town of Cary, on behalf of:

- The Town of Cary 9-1-1
- Town of Cary Police Department
- Town of Cary Fire Department
- City of Apex Fire Department
- Town of Morrisville Police Department
- Town of Morrisville Fire Department

1.2 Purpose and Background

The Town of Cary is looking to replace the current Computer Aided Dispatch (CAD) system with a fully functional, upgraded and contemporary system, leveraging and integrating new technologies and providing streamlined interoperability with emergency communication centers in surrounding jurisdictions.

The current CAD system lacks the stability required to provide responsive, reliable customer service. The system is cumbersome to navigate and utilize, has limited functionality, and requires multiple actions to obtain information that is more easily accessed in up-to-date systems. High availability (HA) is a key requirement moving forward and the current system experiences workstation and system availability issues, hindering responsiveness to citizens, fire responders and police officers in the field.

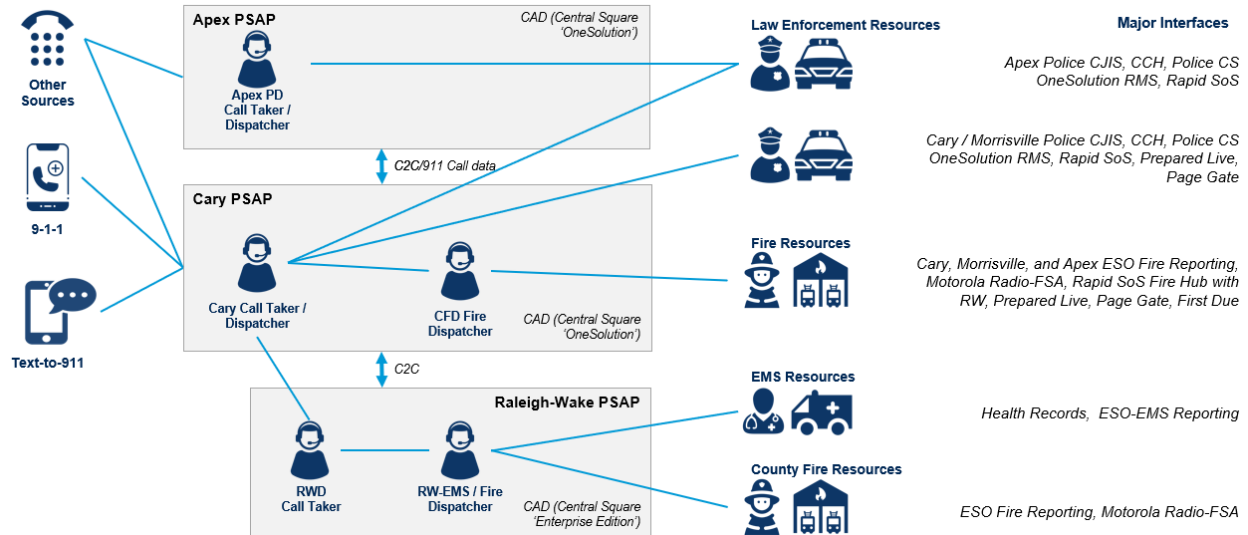
The Town of Cary seeks an innovative solution that allows for increased and expedient integration of new applications and platforms to support the quick response and rapid deployment of cutting-edge services across various current and future, integrated public safety platforms and entities.

1.2.1 Current State Context

Cary 9-1-1 is the primary 9-1-1 center for emergency calls for service (CFS or 'call') for the Town of Cary and Morrisville Police as well as Cary, Morrisville, and Apex Fire Departments. The request to dispatch EMS units is communicated from Cary 9-1-1 to Raleigh Wake Communications.

The figure below describes a high-level summary of the Town of Cary 9-1-1's operational context.

Figure 1. Operational CAD Context Model



Each call is appropriately managed and directed to align with the required needs and appropriate services.

- Fire services for Cary, Morrisville, and Apex are dispatched from Cary's 9-1-1 communications center
- Cary 9-1-1 acts as a pivotal centralized hub utilizing a unified CAD platform for dispatching each agency
- Cary and Morrisville Police Service calls are received through the Cary 9-1-1 PSAP and are transferred to a Police Dispatcher who will dispatch the call using the unified CAD system
- Police Calls for Apex Police are handled by Apex Police Department internally, while Fire calls are handled by Cary 9-1-1 internally
- Ambulance service calls received by Cary 9-1-1 are transferred to Raleigh Wake 9-1-1 Communications via a CAD-to-CAD interface and then dispatched by Raleigh Wake

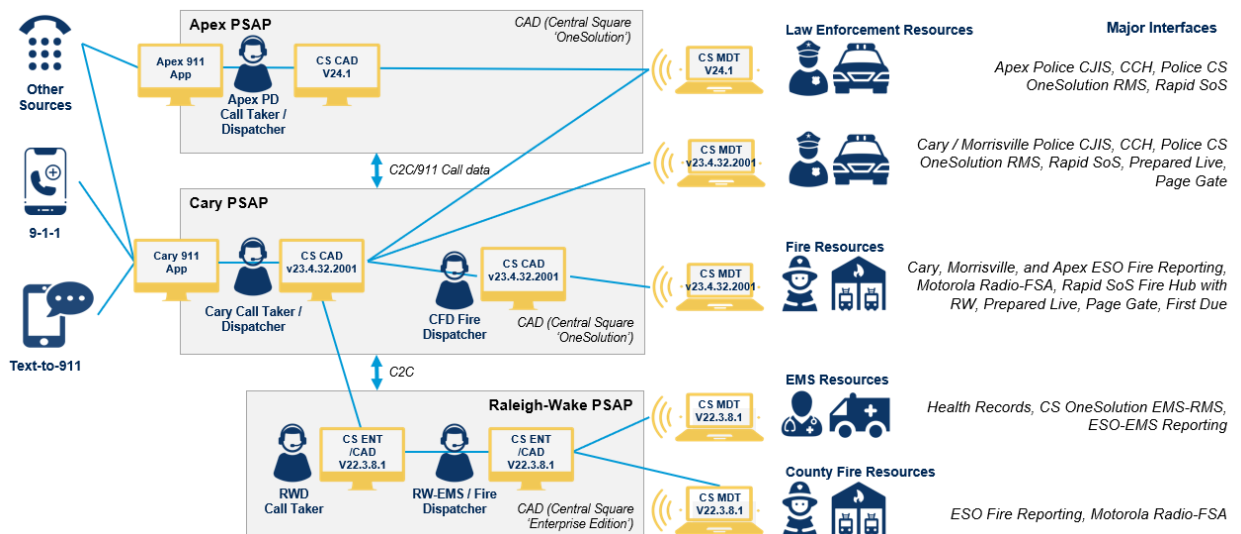
Table 1. Relevant CAD Statistics for Bidder Attention

Relevant Statistics		
Total Calls for Service*: 202,563	Total Desktop CAD Users: 124	Total Mobile CAD Users: 671
<ul style="list-style-type: none"> Cary PD: 125,871 Cary FD: 14,241 Apex FD: 4,837 Morrisville FD: 3,513 Morrisville PD: 54,101 	<ul style="list-style-type: none"> Cary PD: 35 Cary FD: 15 Apex FD: 10 Morrisville FD: 7 Morrisville PD: 57 	<ul style="list-style-type: none"> Cary PD: 199 Cary FD: 245 Apex FD: 46 Morrisville FD: 61 Morrisville PD: 120

*Including self-initiated calls for service

The figure below describes a summary of the Town of Cary 9-1-1's technical context as it relates to CAD.

Figure 2. Current State Technical Context Model



Calls for service are transferred from the Cary 9-1-1 Motorola Vesta/Viper System into Cary's Central Square 'One Solution' CAD system.

- Police/Fire calls and data being collected are directly viewed and transferred from the CAD Call Taker to the respective CAD Dispatcher
- EMS Calls received within Cary 9-1-1 are relayed via a CAD-to-CAD interaction. Depending on the need or requirements, there is interaction between Cary Fire and Wake County initiated through the CAD-to-CAD interaction
- Police Calls for Apex Police are handled by the Apex Police Department internally, while Fire and EMS are transferred to Cary 9-1-1 for Fire and Raleigh Wake for EMS
- For Fire and EMS calls, ProQ/A is utilized to support scenario / criteria-based questioning. Currently, ProQ/A is not used for Police, but the replacement CAD system is expected to provide guidance and protocols for Police call taking to promote greater consistency across Call Takers.
- Stakeholders utilize various CAD configurations, including CAD-to-CAD, MDT (Mobile Data Terminals), and stationary situational CAD displays

The successful Bidder is expected to provide a new CAD system for Cary 9-1-1 and Mobile CAD for Cary Police, Morrisville Police as well as Cary Fire, Morrisville Fire, and Apex Fire Departments.

1.2.2 CAD Replacement Vision

The CAD replacement project aims to equip the communities of Cary, Morrisville, and Apex with a dynamic, data-driven, and scalable CAD solution that enhances public safety and improves operational efficiency for each resident and business through regionalized interoperability.

The following principles, identified by the Town in collaboration with its stakeholders, are requirements for the Bidder's proposed solution approach. Bidders are encouraged to describe in their proposals specifically how their proposed CAD Systems will support the Town and its partners achieve these objectives.

Table 2. CAD Replacement Guiding Principles

Information Sharing	The CAD platform should foster cross-agency cooperation wherever possible.
Flexibility	The CAD platform should be flexible and adapt to the unique needs of departments and functionality across the 3 municipalities (Apex, Cary, Morrisville).
Data-Driven	The CAD platform should be able to provide robust data validation, reporting, and analytics tools to enable data-driven decision-making and improve situational awareness.
Scalability	The CAD platform should be able to grow and scale with the future needs of the 3 municipalities and be capable of regionalized interoperability.
Resilience	The CAD platform should provide systems and infrastructural redundancy to prevent single points of failure.
Mobility	The CAD platform should support remote access and a cloud-based platform.
Simplicity / User Friendly	The CAD platform should be intuitive and easy to use (i.e., simple user experience).

1.3 **Notice to Vendors Regarding RFP Terms and Conditions**

It shall be the Vendor's responsibility to read the Instructions, the Town's terms and conditions contained within the Town's Principal Contract, all relevant exhibits and attachments, and any other components made a part of this RFP and comply with all requirements and specifications herein. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

If Vendors have questions, issues, or exceptions regarding any term, condition, or other component within this RFP, those must be submitted as questions in accordance with the instructions in [Section 1.5 Proposal Questions](#). If the Town determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an RFP addendum. The Town may also elect to leave open the possibility for later negotiation and amendment of specific provisions of the Principal Contract that have been addressed during the question submission period. Other than through this process, the Town rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal. This applies to any language appearing in or attached to the document as part of the Vendor's proposal that purports to vary any terms and conditions or Vendors' instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor's proposal shall constitute a firm offer. **By execution and delivery of this RFP Response, the Vendor agrees that Vendor is prepared to enter into a contract in the form of the Principal Contract should Town select Vendor's proposal and that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's proposal as nonresponsive.**

*If a Vendor desires modification of the terms and conditions of this solicitation, including any term or condition contained in the Principal Contract, it is urged and cautioned to inquire **during the question period**, in accordance with the instructions in this RFP, about whether specific language proposed as a modification is acceptable to or will be considered by the Town. Identification of objections or exceptions*

to the Town's terms and conditions in the proposal itself shall not be allowed and shall be disregarded or the proposal rejected.

1.4 **RFP Response Timeline**

The RFP process shall adhere to the following schedule:

RFP Process	Date and time	
RFP posted	Mon, April 14, 2025	
Proposers Written Questions Due	Thurs, May 1, 2025	
Town Responses to Proposers questions	Thursday, May 8, 2025	
Proposal Submission Deadline	Fri, May 30, 2025	2 pm
Possible Demonstrations and/or additional evaluation	As Needed	
Contract Award	TBD -August 2025	
Contract Effective Date	TBD - September 2025	

Note: All times shown as Eastern Time (ET).

1.5 **Proposal Questions**

Upon review of the RFP documents, Vendors may have questions to clarify or interpret the RFP in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions by the above due date. The Town will not entertain any further questions after the due date. Written questions shall be emailed to Carolyn.hemming@carync.gov by the date and time specified above. Vendors should enter "RFP #354-PD25-34: Questions" as the subject for the email. Questions submittals should include a reference to the applicable RFP section and be submitted in a format shown below:

Reference	Vendor Question
RFP Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, the Town's response, and any additional terms deemed necessary by the Town will be posted in the form of an addendum to the North Carolina Electronic Vendor Portal (eVP), <https://evp.nc.gov/solicitations>, and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any Town personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this RFP.

1.6 **Proposal Submission Requirements and Contact Information**

Submittal Requirements and Contact Information

Electronic responses ONLY will be accepted through the NC eVP website. Proposals must be clearly marked with name of the submitting company, the RFP number and RFP title. Proposers must submit one (1) *electronic version, submitted as a viewable and printable Adobe Portable Document File (PDF), on or before the submittal due date and time provided in Section 1.4.* Submissions that do not comply with the stated submission method will be deemed non-responsive. The Town reserves the right to reject any or all proposals for any reason and to waive any informality it deems in its best interest. Any requirements in the RFP that cannot be met must be indicated in the proposal. Proposers must respond to the entire Request for Proposals (RFP). An incomplete proposal may be eliminated from consideration at the discretion of Cary.

Proposals must follow the format as defined in [Section 2 PROPOSALS](#).

1.7 Rights to Submitted Material

All proposals, responses, inquiries, or correspondence relating to or in reference to this RFP, and all reports, charts, and other documentation submitted by Proposers (other than materials submitted as and qualifying as trade secrets under North Carolina law) shall become the property of the Town when received and the entire proposal shall be subject to the public records laws of the State of North Carolina except where a proper trade secrets exception has been made by the Proposer in accordance with the procedures allowed by North Carolina law.

The Town reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Proposer of the conditions contained in this Request for Proposal.

2 PROPOSALS

Responses must follow the format outlined herein. The Town may reject as non-responsive at its sole discretion any proposal or any part thereof that is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposal responses shall be organized in the following manner:

1. Cover Letter/Letter of Intent

Introduction letter with intent as it may pertain to the Request for Proposal.

2. Corporate Background and Experience

This section shall include background information on the organization and should give details of experience with similar projects. A list of five (5) references (including contact persons and telephone numbers) for which similar work has been performed in the past three years shall be included, and the list shall include all similar contracts performed by the Proposer in the past five years. The evaluators will randomly select at least three of these references, but the evaluators reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry. The failure to list all similar contracts in the specified period may result in the rejection of the Proposer's proposal. The evaluators may check all public sources to determine whether Proposer has listed all contracts for similar work within the designated period. If the evaluators determine that references for other public contracts for similar contracts were not listed, the evaluators may contact the public entities to make inquiry into Proposer's performance of those contracts and the information obtained may be considered in evaluating Proposer's proposal.

3. Financial Statement

The Proposer shall provide the following financial information:

Recent audited or reviewed financial statements prepared by an independent certified public accountant (CPA) that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement **and**, if the audited or reviewed financial statements were prepared more than six (6) months prior to the issuance of this RFP, the Proposer shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures from the date of the audited or reviewed financial statements to the end of the most recent financial reporting period (i.e., the quarter or month preceding the issuance date of this RFP)).

OR,

Recent compiled financial statements prepared by an independent CPA that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement **and**,

if the compiled financial statements were prepared more than three (3) months prior to the issuance of this RFP, the Proposer shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures to date), and other evidence of financial stability such as most recently filed income tax return, evidence of a line of credit/loans/other type of financing with statement of amount in use/outstanding balance (e.g., a complete copy commitment letter, loan agreement, billing statement reflecting the line of credit or statement from lender acknowledging the commitment to fund the Proposer's stated financing), performance bond, personal guaranty with copies of personal income tax filing and statement of net worth or such other evidence that is accurate, reliable and trustworthy regarding the Proposer's financial stability.

Recent shall be defined as financial statements that were prepared within the 12 months preceding the issuance date of this RFP.

Consolidated financial statements of the Proposer's parent or related corporation/business entity shall not be considered, unless: (1) the Proposer's actual financial performance for the designated period is separately identified in and/or attached to the consolidated statements, (2) the parent or related corporation/business entity provides the Town with a document wherein the parent or related corporation/business entity will be financially responsible for the Proposer's performance of the contract and the consolidated statement demonstrates the parent or related corporation's/business entity's financial ability to perform the contract, financial stability and/or such other financial considerations identified in the evaluation criteria; and/or (3) Proposer provides its own internally prepared financial statements and such other evidence of its own financial stability identified above.

The Proposer's failure to provide any of the above-referenced financial statements or failure to submit all the requested financial statements may result in the rejection of the Proposer's proposal and rejection is more likely to occur if other Proposers provide financial documentation in compliance with the foregoing provisions. Proposers are also encouraged to explain any negative financial information in its financial statements and are encouraged to provide documentation supporting those explanations.

All financial information, statements and/or documents provided in response to this proposal requirement shall be kept confidential, IF THE PROPOSER COMPLIES WITH PARAGRAPH 13 OF THE GENERAL INFORMATION ON SUBMITTING PROPOSALS BY MARKING THE FINANCIAL INFORMATION, STATEMENTS AND/OR DOCUMENTS CONFIDENTIAL.

4. System Capabilities & Functionality

The Proposer shall provide a comprehensive description of how their system meets the functionality and capabilities required for this project. This should include detailed explanations of the system's features, performance, and relevant technical specifications. The Proposer should clearly demonstrate how their solution aligns with Section 1.2.1. Current State Context and 1.2.2. CAD Replacement Vision, addressing required functionalities and providing evidence of the system's ability to fulfill the project's needs effectively. All functionality and capabilities included as part of the RFP response must be available and fully operational at the time of implementation; proposed features that are in development or planned for future release will not be considered as meeting the requirements. Responses submitted within the appendices will be referenced and used as the basis for evaluating this area of the proposal.

5. Project Understanding, Approach and Schedule

This section shall include, in narrative, outline, and/or graph form the Proposer's approach to accomplishing the tasks outlined in the Scope of Work section of this RFP. A description of each task and deliverable and the schedule for accomplishing each shall be included.

6. Team Organization, Experience and Certifications/Qualifications

This section must include the proposed staffing, deployment and organization of personnel to be assigned to this project. The Proposer shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

7. Cost Proposal Appendix F

The Cost Proposal shall be submitted and contain:

- **TOTAL COST:** A total not to exceed / fixed price representing the maximum amount for all work / products / services delivered, broken out as follows:
 - Base System Software with description of functionality (Material only)
 - Recommended Optional Software Add-ons (Material only)
 - Professional Services to Implement Base System (excluding Training)
 - Professional Services to Implement Options / Add-ons
 - Professional Services to provide Training
 - Software Maintenance Agreement Years 1, 2, 3, 4, 5
 - Other associated costs
 - Assumptions (no cost information required)

NOTE: Bidders are required to use the Cost Proposal template provided in Appendix F. Appendices B, C, D and F are required submissions.

2.1 Request for Proposal Document

The RFP is comprised of the base RFP document, any attachments, and any addenda released before Contract award. All attachments and addenda released for this RFP in advance of any Contract award are incorporated herein by reference.

2.2 Evaluation Criteria

This is not a bid. There will not be a public bid opening. Proposals will be evaluated based on the following criteria:

Criteria	(a) Weight	(b) Score (0-3)	(a) x (b) Weighted Score
Cover Letter/Letter of Intent	0		
Corporate Background & Experience	15		
Financial Statement	0		
System Capabilities & Functionality	45		
Project Understanding, Approach & Schedule	15		

Team Organization, Experience & Certifications/Qualifications	15		
Cost Proposal	10		
Final Score	100		

Score Points

0- Missing or Does Not Meet Expectation

2- Meets Expectation

1- Partially Meets Expectation

3- Exceeds Expectation

2.3 Proposal Evaluation Process

The Town shall review all Vendor responses to this RFP to confirm that they meet the specifications and requirements of the RFP.

The Town will conduct a One-Step evaluation of Proposals:

Proposals will be received from each responsive Vendor in a sealed envelope.

All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.

At that date and time, the envelope containing the proposals from each responding firm will remain sealed and opened at time of review. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussion with any or all Vendors for the purpose of clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.

Proposals will generally be evaluated according to completeness, content, and experience with similar projects, ability of the Vendor and its staff, and cost. Specific evaluation criteria are listed in 2.2 EVALUATION CRITERIA, above.

Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the Town reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the Town.

2.4 Final Selection

Proposals will be reviewed after opening and will be ranked in order of choice. A recommendation will then be presented to the Town Manager for approval to negotiate a contract with the #1 choice and, if unsuccessful, to then pursue negotiations with the #2 choice. All Proposers will be notified of their standing immediately following Town's decision. Price quoted must be held firm for 90 days after the RFP is due. The Town reserves the right to make an award without further discussion of the proposal submitted. The Town shall not be bound or in any way obligated until both parties have executed a contract. The Town also reserves the right to delay the award of a contract or to not award a contract. The RFP may be awarded by individual task or total proposal, whichever is most advantageous to the Town of Cary.

The general conditions and specifications of the RFP and the selected proposal, as amended by agreement between the Town and the selected Proposer including e-mail or written correspondence relative to the RFP, may become part of the contract documents. Failure of the awarded Contractor to perform as

represented may result in elimination of the Contractor from competition or in contract cancellation or termination.

Possible Demonstrations and/or additional evaluation

Demonstrations or additional evaluation will be on an as-needed basis only.

2.5 Contract Term

The Contract shall have an initial term of 5 years, beginning on the date of contract award (the “Effective Date”).

The Town shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to a total of two additional one-year terms. The Town will give the Vendor written notice of its intent whether to exercise each option by a duly authorized amendment.

2.6 Invoices

- a) Invoices must be submitted to the Town of Cary Accounts Payable in email on the Contractor’s official letterhead stationery and must be identified by a unique invoice number. All invoice backup reports and spreadsheets must be provided in electronic format.
- b) Invoices must bear the purchase order number to ensure prompt payment. The Vendor’s failure to include the correct purchase order number may cause delay in payment.
- c) Invoices must include an accurate description of the work for which the invoice is being submitted, the invoice date, the period of time covered, the amount of fees due to the Vendor.

2.7 Notice to Proposers Regarding RFP Terms and Conditions

It shall be the Proposer’s responsibility to read the Instructions, the Town’s terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFP, and comply with all requirements and specifications herein. Proposers also are responsible for obtaining and complying with all addenda and other changes that may be issued in connection with this RFP.

3 SCOPE OF SERVICES

The Bidder is expected to provide appropriate technology and services for the project management, design/configuration, on-site implementation and training of a replacement CAD System, as well as ongoing support and maintenance for 5 years after go-live and system acceptance, with options for up to 2 additional 1-year contract extensions. The scope of requirements are detailed in this RFP document and 7 appendices. It is expected that implementation of this technology be conducted on-site, on location in Cary, North Carolina. Take this into consideration when preparing a response to this RFP.

The replacement CAD System will facilitate the processing of 9-1-1 calls for service (CFS) by the Town of Cary’s Public Safety Answering Point (PSAP) with its regional first responder partners as described in the Use Cases provided in Appendix #A, the Detailed Functional and Non-Functional Requirements provided in Appendix #B, the Technical Specifications in Appendix #C, Service Requirements in Appendix #D and Interfaces in Appendix #E.

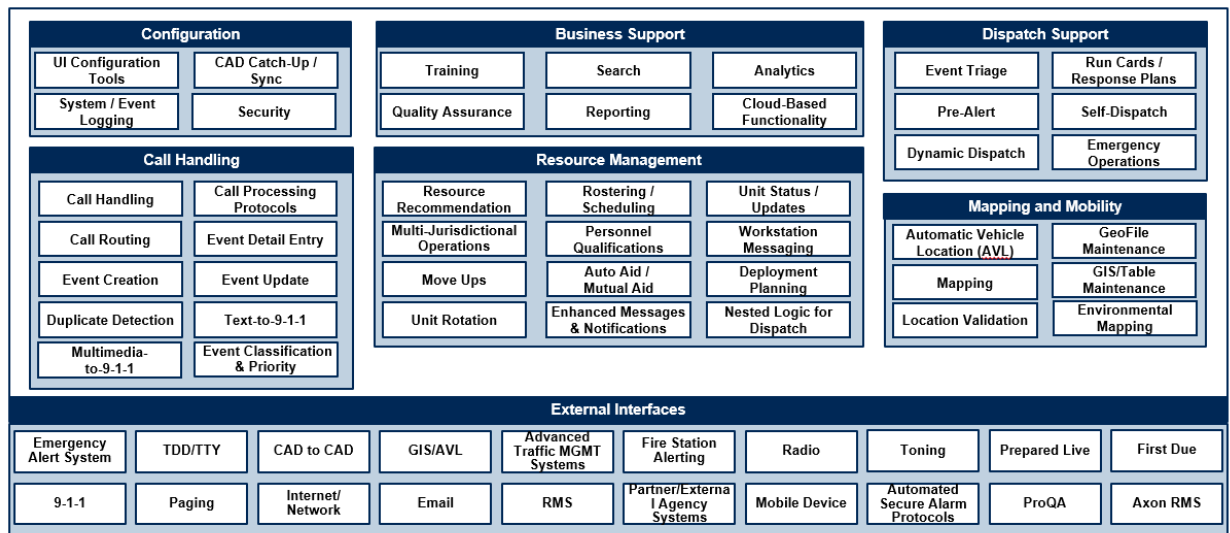
The CAD System is expected to allow the Town of Cary and its partners to achieve the following objectives:

- Eliminate redundant and time-consuming call-taking processes, optimizing operational effectiveness.
- Improve the delivery of emergency services to the public.
- Support improved decision-making through increased data availability, quality, and accuracy shared electronically between Cary 9-1-1 and its partners.

- Leverage modern technology to support this life-critical emergency communications and first-response operational landscape with a robust, resilient platform that can evolve and scale to meet future growth.

The figure below describes Cary’s minimum expectations for CAD system capabilities. Each capability is further described by one or more detailed requirements provided in Appendix #B. This model is not intended to prescribe or dictate how Bidders’ CAD systems are designed or specified, nor does it preclude Bidders from proposing capabilities that may not appear in this model. The model is intended to establish a minimum threshold for desired CAD functionality. Vendors are encouraged to highlight innovations to any of these minimum capabilities and/or any additional capabilities proposed.

Figure 3. Expected CAD System Capabilities



Use Cases are provided in **Appendix #A** for informational purposes, describing how the CAD is intended to function in various scenarios and the specific objectives the Town is intending to achieve through its implementation. Please note that Use Cases are NOT intended to prescribe a technical solution or prescribe how the solution functions, they are intended to help Bidders understand what the Town is trying to achieve for each capability. It is the Bidders' responsibility to propose an optimal solution that will meet their stated goals. Note, the Use Cases will be used as an input to demonstrations in the subsequent procurement stage, should Bidders be invited to participate.

Detailed **Functional and Non-Functional Requirements** are provided in **Appendix #B**. Bidders are required to provide responses to each requirement using the response format provided (described in the attachment) together with any narrative responses alongside any requirements where Bidders feel it will help the Town understand their proposed solution and/or response to any given detailed requirement better.

Technical Requirements are provided in **Appendix #C**. Bidders are required to provide written responses to each item in this attachment to help the Town gain some specific insight into the Bidder's proposal and their perspectives as it relates to priority domains and technical attributes associated with the Bidder's proposed solution.

Services Requirements are provided in **Appendix #D**. Bidders are required to provide an acknowledgement with the expected services and note any modifications or additions, where desired, for the Town to consider.

Interfaces required to be delivered with the replacement CAD System are defined in **Appendix #E**.

4 COST PROPOSAL/EXECUTION OF PROPOSAL

By submitting this proposal, the potential contractor certifies the following:

- This proposal is signed by an authorized representative of the firm.
- The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.
- All labor costs, direct and indirect, have been determined and included in the proposed cost.
- The potential contractor has read and understands the conditions set forth in this RFP to include TOC general conditions/service terms, any addenda, and all attached exhibits and agrees to them with no exceptions.

By: _____
(Signature)

Name: _____
(Printed)

Title: _____

Date _____

5 REFERENCES

Offeror **must** supply (5) five references with Public Safety operations of similar or greater complexity as the Town of Cary's for which CAD services have been performed during the past (3) three years.

Offerors are cautioned to provide accurate reference information. References will be checked during evaluation period.

OFFEROR: _____

CITY, STATE, ZIP: _____

Reference # 1

Agency or Firm Name: _____

Business Address _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: (____) _____ **Fax Number:** (____) _____

Email Address: _____

Reference # 2

Agency or Firm Name: _____

Business Address _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: (____) _____ **Fax Number:** (____) _____

Email Address: _____

Reference # 3

Agency or Firm Name: _____

Business Address _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: (____) _____ **Fax Number:** (____) _____

Email Address: _____

Reference # 4

Agency or Firm Name: _____

Business Address _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: (____) _____ **Fax Number:** (____) _____

Email Address: _____

Reference # 5

Agency or Firm Name: _____

Business Address _____

City: _____ **State:** _____ **Zip Code:** _____

Phone Number: (____) _____ **Fax Number:** (____) _____

Email Address: _____

INSTRUCTIONS TO VENDORS

1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and appendices, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this RFP document. **All criteria requested in this RFP and appendices must be complete.**
2. **ACCEPTANCE AND REJECTION:** The Town reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Vendor, to accept any item in the proposal. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
3. **BASIS FOR REJECTION:** The Town reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to the Town, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of the Town.
4. **EXECUTION:** Failure to sign EXECUTION PAGE in the indicated space will render proposal non-responsive, and it shall be rejected.
5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or those in any resulting contract, the order of precedence shall be (high to low): (1) The Principal Contract Terms, (2) RFP Terms, (3) Instructions in INSTRUCTIONS TO VENDORS, and (4) Vendor's Proposal.
6. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and, in the spaces, provided in this document. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal or available elsewhere will not satisfy this provision. Proposals that do not comply with these requirements shall be subject to rejection without further consideration.
7. **MINORITY WOMEN BUSINESS ENTERPRISES (MWBE):** The Town invites and encourages participation in this procurement process by minority women business enterprises (MWBE) in accordance with North Carolina General Statute 143-129.
8. **DIVERSITY AND INCLUSION:** The Town encourages vendors to have a diverse and inclusive project team involved in all aspects of this project.
9. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the Town will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. 132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.

10. **COMMUNICATIONS BY VENDORS:** In submitting its proposal, the Vendor agrees not to discuss or otherwise reveal the contents of its proposal to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this RFP. All Vendors are forbidden from having any communications with the using or issuing agency, or any other representative therein, concerning the solicitation, during the evaluation of the proposals (i.e., after the public opening of the proposals and before the award of the Contract), unless the Town directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Vendor shall not: (a) transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Vendor's proposal and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the Contract that is the subject of this RFP. Vendors not in compliance with this provision may be disqualified, at the option of the Town, from the Contract award. Only those communications with the using agency or issuing agency authorized by this RFP are permitted.
11. **WITHDRAWAL OF PROPOSAL:** A Proposal may be withdrawn only in writing and actually received by the office issuing the RFP prior to the time for the opening of Proposals identified on the cover page of this RFP (or such later date included in an Addendum to the RFP). A withdrawal request must be on Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after the opening of Proposals shall be allowed only for good cause shown and in the sole discretion of the Town.
12. **INFORMAL COMMENTS:** The Town shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the Town during the competitive process or after award. The Town is bound only by information provided in this RFP and in formal Addenda issued through the eVP website.
13. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; the Town will not reimburse any Vendor for any costs incurred prior to award.
14. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
15. **SUBCONTRACTING:** Unless expressly prohibited, a Vendor may propose to subcontract portions of the work to identified subcontractor(s), provided that its proposal clearly describe what work it plans to subcontract and that Vendor includes in its proposal all information regarding employees, business experience, and other information for each proposed subcontractor that is required to be provided for Vendor itself.
16. **INSPECTION AT VENDOR'S SITE:** The Town reserves the right to inspect, at a reasonable time, the equipment/item, plant, or other facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary, for the Town determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

TOWN OF CARY PRINCIPAL CONTRACT

Any Vendor whose proposal is selected by Town shall be expected to enter into the following Principal Contract with Town. As stated in section 1.3 of this RFP, any Vendor who submits a response to this RFP certifies by making said submittal that it has reviewed this Principal Contract and, at the time of submittal, is prepared to enter into this Principal Contract should its proposal be selected. Also as stated in section 1.3, Vendor should use the question procedure described in section 1.6 to address any questions Vendor has about the Principal Contract prior to making its submittal. Notwithstanding anything to the contrary contained in Contractor's Proposal, the terms and conditions of the Principal Contract and the RFP, if any, apply and take precedence and control over inconsistent, ambiguous or contrary terms and conditions in Proposal. However, if Proposal imposes a more stringent standard or obligation on Contractor then the more stringent standard or obligation shall apply.

Principal Contract Terms

These Principal Contract Terms (the "Contract" or "PCT") are entered into as of the "Effective Date" by and between the Contractor identified below ("Contractor") and the Town of Cary, a North Carolina municipal corporation ("Cary"). Contractor and Cary are referred to individually as a "Party" and collectively as the "Parties."

SIGNATURES

Contractor and Cary hereby agree to be bound by the following contractual terms contained within these PCT and its Attachments:

Contractor:

Town of Cary:

By:

By:

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

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

Deputy Finance Officer

Date

TERMS

1. Parties

Contractor

Legal Name: _____

Mailing Address: _____

Primary Contact: _____

Email: _____

Phone: _____

Cary

Primary Contact: _____

Mailing Address: P.O. Box 8005
Cary, NC 27512-8005

Email: _____

Phone: _____

2. Type of Services:

- ☐ Professional or Consulting Services
- ☐ On-call Professional or Consulting Services
- ☐ Goods or Purchase Order
- ☐ Technology Agreement (Software, hardware, technology support services)
- ☐ Temporary Personnel
- ☐ PRCR Instructor/Entertainer Agreement
- ☐ Other: _____

3. Term of Contract (also see Paragraph 9):

Effective Date: ☐ Actual date: _____
☐ Date of last signature execution

Length of Term: _____[months/years]

Renewal Term, if applicable:

- ☐ None
- ☐ 1 year renewal extension at Cary's option
- ☐ 2 year renewal extension at Cary's option
- ☐ 3 year renewal extension at Cary's option
- ☐ Other _____

4. Total Contract Amount: \$ _____

5. Contract Amount to be expended during current fiscal year: \$ _____

6. Payment Terms/Schedule (also see Paragraph 12):

☐ No more often than Monthly, 30 days after invoice

- ☐ Lump sum paid at _____ (event or milestone)
- ☐ As set forth in SOW

7. Attachments to this Principal Contract Terms Sheet

- ☐ Attachment A: SOW (General)
- ☐ Attachment B: Insurance Provisions (minimum insurance requirements)
- ☐ Attachment C: Public Records Indemnification
- ☐ Attachment D: Information Technology Services Terms and Conditions (IF APPLICABLE)
- ☐ Attachment E: Reimbursable Expenses (IF APPLICABLE)

8. Scope. Contractor shall perform or provide the services, goods, or other bargained-for benefits (“Services”) as described in the PCT, the attached Scope of Work (“SOW”), any additional or amended SOWs executed by the Parties pursuant to the PCT, and/or any duly-executed written amendment (“Amendment”) to the PCT. Cary has no obligation to execute any SOW, Amendment, or additional agreement with Contractor.

9. Term; Termination; Suspension.

- a. The term of the PCT shall begin as of the Effective Date, and, unless sooner terminated in accordance with the provisions in this PCT, shall end following the Length of Term indicated herein (the “Initial Term”). At Cary’s option, the PCT may be extended as indicated in paragraph 2 (the “Renewal Term”, and, together with the Initial Term, “Term”) by written notice.
- b. Cary may order Contractor in writing to suspend, delay, or interrupt all or any part of the Services for the convenience of Cary. In the event Contractor believes that any suspension, delay, or interruption of the Services ordered by Cary may require an extension of the Term or an increase in the level of staffing by Contractor, it shall so notify Cary and propose an amendment to this Contract, which shall be effective only upon the written approval of Cary. A suspension, delay, or interruption of the Services requested by Cary shall not terminate the PCT.
- c. The PCT or any individual SOW may be terminated by Cary and for its convenience upon ten (10) days’ written notice to Contractor.
- d. After thirty (30) days’ written notice to the other party of its material breach of the PCT or any individual SOW, the PCT or any individual SOW may be terminated by the noticing Party, provided that the other party has not taken all reasonable actions to remedy the breach.
- e. Upon termination of the PCT or any individual SOW for any reason, Contractor shall be paid that portion of its fees and expenses that it has earned for Services satisfactorily completed to the date of termination under the PCT or applicable SOW, as appropriate, less any costs or expenses incurred or anticipated to be incurred by Cary due to breach or errors, omissions, or mistakes of Contractor.
- f. In the event of termination for the convenience of Cary or by reason of a material breach by Cary of the PCT or any individual SOW, Contractor shall be paid that portion of the total compensation for the PCT or individual SOW, as appropriate, that it has earned to the date of termination, plus an amount equal to (i) five

- percent (5%) of total compensation earned to date of termination; or (ii) Contractor's unearned total compensation, whichever is less; less any costs or expenses incurred or anticipated to be incurred by Cary due to breach or errors, omissions, or mistakes of Contractor. The Parties intend that these liquidated damages constitute compensation, and not a penalty. Contractor expressly agrees that harm caused by Cary under this Section 9(f) would be impossible or very difficult to accurately estimate, and that the liquidated damages are a reasonable estimate of the anticipated or actual harm that might arise. Contractor further expressly agrees that said compensation is fair and appropriate as liquidated damages for any and all costs and damages it might incur as a result of such termination. Payment of damages under this Section 9(f) is Cary's sole liability and entire obligation and Contractor's exclusive remedy for any Cary breach.
- g. Termination of any individual SOW shall not result in termination of the PCT or any other pending or ongoing SOW, unless expressly set forth in the notice of termination associated with such terminated SOW. Notwithstanding the Length of Term that may be indicated herein, the PCT shall remain in effect until the completion of the last SOW then in effect under the PCT.
 - h. Upon expiration or termination of the PCT for any reason, Contractor shall promptly comply with any and all terms for the dissolution of the PCT that may be contained in any applicable SOW and the following general terms:
 - i. Deliver to Cary all documents, work product, and other materials, whether or not complete, prepared by or on behalf of Contractor in the course of performing the Services and expend such additional effort as may be necessary to provide to Cary professionally certified and sealed reports and such other information and materials as may have been accumulated by Contractor in the performance of the PCT, whether completed or in process.
 - ii. Return to Cary all Cary-owned property, equipment, or materials in its possession or control, including, but not limited to, all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on Cary's Confidential Information as defined in Paragraph ____ of the PCT, or, upon Cary's written request, permanently delete all of Cary's Confidential Information from its computer systems.
 - iii. Remove any Contractor-owned property, equipment, or materials located on Cary property.
 - iv. Provide reasonable cooperation and assistance to Cary upon Cary's written request in transitioning to an alternate provider, if applicable.
 - v. On a pro rata basis, repay all sums paid in advance for any Services which have not been provided.
 - vi. At Cary's discretion, complete any other termination requirements.
10. Responsibilities of Contractor. Contractor represents and warrants that it is fully qualified, skilled, and capable of performing the Services in a fully competent, professional, and timely manner; shall provide Services in accordance with industry standards; shall use best efforts and exercise reasonable care and diligence in performing Services and shall act in the best interest of Cary; is qualified to do business in North Carolina and will make all necessary filings and perform other actions required to remain in good standing with the North Carolina Secretary of State; and possesses or shall acquire all qualifications, licenses, and certifications

necessary to provide Services. Contractor shall be responsible for all errors, omissions, or mistakes in performance of Services and shall correct at no additional cost to Cary any and all errors, omissions, or mistakes. In addition to any other damages that may be due to Cary, Contractor shall reimburse Cary for the aggregate cost to Cary for all errors, omissions, and mistakes of Contractor or any breach of the PCT by Contractor. Contractor shall be responsible for all applicable taxes, license fees, or the like required to provide Services. It is mutually agreed that time is of the essence in performing under the PCT. Contractor shall expedite and accelerate its efforts as necessary to perform in accordance with the PCT at no additional cost to Cary, if Cary reasonably determines that Contractor is behind schedule. Contractor further represents that, prior to accepting any agreement that is funded by Federal funds, Contractor:

- a. Is not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal Government agency and not included in the Excluded Parties List System;
 - b. Has not, within a three-year period preceding the Effective Date, been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and
 - c. Is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property.
11. Responsibilities of Cary. Cary has designated a Primary Contact in Paragraph 1 who shall coordinate performance and who shall be available during working hours as often as may be reasonably required to communicate decisions and to furnish information. Cary shall examine documents submitted by Contractor and shall make reasonable efforts to render timely decisions pertaining thereto so as to not unduly delay the orderly progress of performance.
12. Compensation. Fees for the Services performed in conjunction with the PCT shall not exceed the Total Contract Amount specified herein unless otherwise changed by Amendment. Cary shall pay Contractor in accordance with the Payment Schedule in the applicable SOW.

Invoices shall be submitted by Contractor no more than monthly for all Services rendered by Contractor during the month prior or as specified in the applicable SOW.

Approved, uncontested invoices shall be paid within thirty (30) days of receipt by Cary. Cary shall contest submitted invoices to which it disagrees within thirty (30) days of receipt. The Parties shall endeavor to reconcile any disputed invoices within the same thirty (30) day period. Cary shall have the right to deduct from payments to the Contractor any costs or damages incurred, or which may be incurred, by Cary as a result of the Contractor's failure to perform in accordance with the PCT, following reasonable notice and opportunity to cure such nonperformance by Contractor. For prompt payment all invoices must include the Purchase Order Number. Submit invoices to TOWN OF CARY electronically to submit.invoices@carync.gov as a PDF attachment. Invoices not submitted following these instructions will result in delayed payment.

Accounting records of Contractor's compensation for Services (and Reimbursable Expenses, if permitted under an SOW) shall be maintained by Contractor in accordance with generally accepted accounting practices and shall be available for inspection and copying by Cary at mutually convenient times for a period of three (3) years after termination of the PCT unless a longer period is required by law.

13. Insurance. During the term and for a period of three years after the termination of the PCT, Contractor and Contractor's permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense insurance as required by applicable law or regulation and as outlined in the attached Insurance Addendum to the PCT and as needed to ensure that it can meet its obligations under the PCT. All insurance policies (except Workers Compensation, Cyber and Professional Liability) shall name Cary, its elected officials, officers, employees, agents, and volunteers as an additional insured. Requirements regarding types and minimum limits of insurance coverage and other provisions specific to the PCT are attached hereto. Cary reserves the right to modify the applicable insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
14. State and Federal Funds. Contractor shall work in good faith with Cary to meet requirements imposed by the Federal or State government or other funding entity if grants or other sources of Federal or State funding are used to fund any portion of Services. If the source of funds for the PCT is Federal funds, the following Federal provisions apply (as applicable) unless a more stringent State or local law or regulation is applicable: Employment Eligibility Verification (FAR 52.222-54), Whistleblower protections (41 U.S.C. 265 and 10 U.S.C. 2408), and the following federal provisions listed in 2 C.F.R. Part 200, Appendix II: Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland "Anti-Kickback" Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.323); Record Retention Requirements (2 CFR § 200.334); Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 C.F.R § 200.216); Domestic Preferences for Procurements (2 C.F.R § 200.322).

15. Indemnification.

- a. Indemnification; General. To the fullest extent permitted by applicable laws and regulations, Contractor shall indemnify, protect, defend, and hold harmless Cary, its elected officials, officers, employees, agents, and volunteers (collectively, "Cary Indemnitees") from and against any and all claims, costs, civil penalties, fines, losses, liabilities, injuries (including death), demands, damages (including but not limited to all professionals' fees and charges and all court or other dispute resolution costs), actions, causes of action, suits, proceedings, judgments, and expenses, including reasonable attorneys' fees, court costs, and other legal expenses and including, without limitation, those costs incurred at the trial and appellate levels and in any bankruptcy, reorganization, insolvency, or similar proceeding, and other legal expenses (collectively and separately, "Claims") by whomsoever brought or alleged, arising out of, resulting from, or in connection with:
 - i. Any breach by Contractor of any term or condition of the PCT or applicable SOW;
 - ii. Any breach or violation by Contractor of any applicable law or regulation; or
 - iii. Any other cause resulting from any negligent, reckless, or intentional act or failure to act by Contractor under the PCT. If N.C.G.S. § 22B-1 applies to the PCT, then Contractor shall indemnify Cary Indemnitees from any other cause resulting from any negligent, reckless, or intentional act or omission constituting a tort under applicable statutes or common law, but only to the extent the fault of the Contractor or its derivative parties (as defined in N.C.G.S. § 22B-1 as it exists on the Effective Date) is a proximate cause of the Claim.
- b. Indemnification; Intellectual Property. Contractor shall indemnify, protect, defend, and hold harmless Cary Indemnitees from and against any and all Claims arising out of, related to, or resulting from any claim, action, or proceeding by a third party alleging that any deliverables or work product created or reduced to practice by or on behalf of Contractor in connection with providing the Services, or any use of such deliverables or work product, infringes, misappropriates, or otherwise violates any intellectual property right (including, without limitation, any patent, copyright, trademark, or trade secret) or other proprietary right of any third party.
- c. Indemnification; Procedures. Cary shall give Contractor written notice of any matters giving rise to a claim for indemnification; provided, however, that the failure of Cary to give notice as provided herein shall not relieve Contractor of its obligations under this Paragraph 15 or of any liability that Contractor may have to Cary, but in no event shall Contractor be liable for any losses that result directly from a delay in providing written notice, which delay materially prejudices the defense of a related third-party claim. Each notice should contain a description of the third-party claim and the nature and amount of the related loss(es) (to the extent that the nature and amount of the loss(es) are known at the time). Cary

shall furnish promptly to Contractor copies of all papers and official documents received in respect of any loss(es). Contractor's duty to defend applies immediately, regardless of whether Cary has paid any sums or incurred any detriment arising out of or relating, directly or indirectly, to any third-party claim.

This Indemnification Paragraph 15 shall survive the termination of the PCT.

16. No Consequential or Indirect Damages. Except for Contractor's indemnification obligations hereunder or any liability arising out of Contractor's negligence, willful misconduct, violation of law, or infringement or misappropriation of intellectual property rights, in no event shall either Party be liable to the other for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages, lost revenues, or diminution in value, arising out of, relating to, or in connection with any breach of the PCT, regardless of whether such damages were foreseeable, whether said Party was advised of the possibility of such damages, and the legal or equitable theory upon which the claim is based.

17. Public Records, Confidential Information, and Dissemination of Information. Contractor acknowledges that records in the custody of Cary are public records and subject to public records requests. Cary may provide copies of such records, including copyrighted records, in response to public record requests, except that, upon request of and indemnification of Cary by Contractor pursuant to the attached Public Records Indemnification Agreement, Cary will not disclose records that meet all of the requirements of a trade secret as set forth in N.C.G.S. § 66-152, that are specifically designated as a "trade secret" or "confidential" at the time of initial disclosure by Contractor, and that are otherwise entitled to protection under N.C.G.S. § 132-1.2(1) ("Contractor Confidential Information"). If Contractor does not provide the required indemnification within ten (10) days of notice that Cary has received a public record request, then such record shall be deemed to not be Contractor Confidential Information and Contractor hereby agrees and consents that Cary may release such record.

If Contractor, its employees or subcontractors, becomes aware of or has access to confidential records or information or information of Cary that is protected from disclosure by Federal or State law ("Cary Confidential Information"), Contractor, its employees and subcontractors, shall not disclose any such Cary Confidential Information. All of the information which Contractor obtains and/or develops in the performance of the PCT is also Cary Confidential Information and shall not be disclosed or used for any purpose other than in the performance of the Services. Contractor may disclose Cary Confidential Information if it is required to do so by applicable statute, rule, regulation, or judicial or administrative process or order, provided, however, that Contractor shall promptly notify Cary of any such requirement so that Cary may seek an appropriate protective order.

Cary takes efforts to assure that accurate information about Cary is disseminated such that neither the public trust nor the public's perception of Cary's impartiality is compromised. Contractor, mindful of those efforts and the terms of the PCT, agrees

that it shall not publicly disseminate any information concerning the PCT, Services, or Cary Confidential Information without prior written approval from Cary. Any approval given by Cary may be given with certain stipulations, such as Cary participation in the creation of the public product or Cary review and the option to refuse public release of the final product(s) should such product(s) fail to meet Cary's standards and goals. Publicly disseminate means, but is not limited to, electronic, video, audio, photographic, or hard copy materials serving as, in whole or part, advertising, social media posts, sales promotion, professional papers or presentations, news releases, articles, or other media products, and/or Contractor's business collateral pieces. Notwithstanding the foregoing, Contractor may list Cary as a reference in response to requests for proposal and may identify Cary as a customer in presentations to potential customers. Contractor may not use Cary's trademarked materials (including, without limitation, Cary's logo in its various forms) unless approved in writing by Cary; such approved use must be in compliance with the guidelines outlined at <https://brand.carync.gov/>.

18. Documents and Deliverables. Cary shall be granted, at no additional cost, ownership of all drawings, specifications, plans, surveys, reports, technical memoranda, testing protocol, designs, electronic databases, written materials, work papers, manuals, and other documents or instruments identified as 'Deliverables' herein (if applicable), as described herein or with more particularity in an applicable SOW, or which, by their nature, are designed to be delivered to Cary under the PCT (collectively, "Deliverables"). Contractor shall turn over to Cary in good unaltered condition, reproduces as described in this Paragraph of all Deliverables prior to final payment, if not delivered earlier hereunder, or within seven (7) days after termination if the PCT is terminated for any reason. Contractor may retain one set of Deliverables for its records.

Cary is and will be the sole and exclusive owner of all right, title, and interest in and to all Deliverables and associated work product, including all intellectual property rights therein. Contractor acknowledges and agrees that any and all work product that may qualify as "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101) is hereby deemed "work made for hire" for Cary and all copyrights therein shall automatically and immediately vest in Cary. In the event Contractor creates Deliverables or work product that requires a license, Contractor will convey with the ownership of Deliverables or work product, a perpetual license required for the operation or use of the Deliverables or work product.

In the event of termination of the PCT for whatever reason, should Cary use Deliverables for completion of Services, Cary shall, to the extent allowed by law and covered by insurance, indemnify and hold Contractor harmless from and against any cost, expense, damage, or claim arising out of the loss of life, personal injury or damage to tangible property occasioned wholly or in part by any act or omission by Cary in connection with Cary's improper use (or misuse) of Deliverables to complete the Services.

Deliverables may be used by Cary for any reason not related to the PCT or applicable SOW without additional compensation to the Contractor. Such use of Deliverables by

Cary for other projects shall be at the full risk of Cary and Cary shall indemnify and hold Contractor harmless, to the extent allowed by law and covered by insurance, from and against any costs, expense, damage, or claim arising out of the loss of life, personal injury, or damage to tangible property occasioned wholly or in part by any act or omission by Cary in connection with Cary's improper use (or misuse) of Deliverables for other projects.

Unless an applicable SOW states differently, Contractor shall provide all Documents and Deliverables in electronic form to Cary in read-only MS-Windows compatible format (including either screen readable .pdf or HTML formats). In addition, all drawings shall be CAD generated and shall be provided on electronic media downloadable onto an AutoCAD based system. All Deliverables (draft and final) intended for presentation on Cary's website must be provided in a manner and format compatible, consistent, and in compliance with the U.S. Department of Justice's current accessibility requirements applicable to local government websites and all Cary technology standards, including but not limited to such material must be provided in screen readable PDF or HTML versions, be screen-reader friendly, and contain alternate text tags of no more than 34 characters. In the event that Contractor notices any errors in electronic data provided to the Cary under this Contract, Contractor shall immediately notify Cary, and if Contractor provided such electronic data, Contractor shall immediately replace same with correct versions thereof.

19. Assignment. The PCT shall bind Contractor and its successors and permitted assigns. Contractor shall not assign or transfer its rights or interest in the PCT (including the right to payment), nor shall Contractor delegate its duties under the PCT, without Cary's written consent, which Cary may grant or withhold in its sole discretion. Cary's consent shall not release Contractor of any obligation under the PCT and Contractor and permitted assigns shall be subject to all of Cary's defenses. Any attempt to assign the PCT without the prior written approval of Cary shall be void.
20. Key Personnel; Subcontractors. No changes in Contractor's Key Personnel or subcontractors designated in an SOW as those who will provide Services shall be permitted except with the prior written consent of Cary. Such replacement Key Personnel and subcontractors shall have the same or higher qualifications and experience as those being substituted. Contractor shall be responsible for the scheduling, completeness, quality, accuracy, and timeliness of all work by subcontractors. Contractor's contracts with subcontractor(s) shall include a provision that, in the event the PCT is terminated for cause by Cary, Cary may take assignment of such contract of Contractor with their subcontractor. Cary has the right to require that any personnel or subcontractor be replaced due to unsatisfactory performance and, if Cary notifies Contractor in writing that any person providing Services appears to be incompetent, disorderly, or otherwise unsatisfactory to Cary, such person shall be removed from providing Services and shall not again provide Services except with the prior written consent of Cary. No extension of any milestone, Deliverable due date, or other deadline will be granted for such replacement.

21. Independent Contractor. Contractor is acting as an independent contractor, and not as an employee, partner, or agent of Cary. Contractor shall control the conditions, time, details, and means by which Contractor performs Services. Cary shall have the right to inspect the work of Contractor as it progresses solely for the purpose of determining whether Services are being performed in accordance with the PCT and any applicable SOW. Contractor has no authority to commit, act for or on behalf of Cary, or bind Cary to any obligation or liability. Contractor shall not be eligible for and shall not receive any employee benefits from Cary and shall be solely responsible for the payment of all taxes, FICA, Federal and State unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to the fees earned by Contractor.
22. No Third-Party Beneficiaries. There are no third-party beneficiaries to the PCT or any SOW.
23. Nondiscrimination. To the extent permitted by law, neither Party, their officers, employees, contractors, agents, successors, or permitted assigns shall discriminate against any member of a protected class as defined by Federal, State, or local law, including Wake County Code of Ordinances Section 34.01.
24. Force Majeure. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached the PCT, for any failure or delay in fulfilling or performing any term of the PCT when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": actions or inactions of governmental authorities (excluding actions or inactions of governmental authorities taken in the normal course of their regulatory authority and actions taken by Cary as permitted by the PCT); acts of God; flood, fire, earthquakes, explosions, and other potential unforeseeable events related to disasters or catastrophes such as epidemics, pandemics, plagues, or quarantines (specifically excluding foreseeable delays or constraints caused by or related to public health emergencies designated as such by the Centers for Disease Control); war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; embargoes or blockades in effect on or after the Effective Date; national or regional emergency; strikes or labor stoppages; or other similar events beyond the reasonable control of the Impacted Party and without its fault or negligence, and only to the extent that the event affects the Impacted Party's ability to perform under the PCT.

Notice of such Force Majeure Event shall be memorialized in writing by the Impacted Party and provided to the other Party pursuant to the requirements of the PCT and within five (5) days of the beginning of the Force Majeure Event(s). The notice shall describe the Force Majeure Event, the specific performances rendered delayed or impossible by the Force Majeure Event, and the efforts taken and to be taken by the Impacted Party to mitigate the impact of the Force Majeure Event on its duty to

perform (“Initial Notice”). The Impacted Party shall prepare a business continuity plan within five (5) business days of the Initial Notice for review and approval by the other Party. The business continuity plan shall include any specific terms as relevant to any then-ongoing Services to be rendered and any available remedies or mitigation of effects, which such business continuity plan may provide and require the Parties’ agreement as to the modification of the scope of work under any SOW, including contractual price adjustments or increases due to the conditions surrounding the particular Force Majeure Event. In the event the Parties are unable to agree upon the terms of said business continuity plan for an SOW, the Parties shall cooperate in good faith to promptly implement the provisions of Paragraph 9 of the PCT with respect to that particular SOW. The Impacted Party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting the specific performance noticed and to complete its performance in as timely a manner as is reasonably possible. In no event shall the delayed performance be longer than the duration of the noticed Force Majeure Event without the written approval of all Parties. Upon removal of the cause affecting the delay or nonperformance, the Impacted Party shall resume performance of its obligations under the PCT within a mutually agreeable amount of time, as agreed to in the business continuity plan or any amendments thereto.

25. Emergencies. If any Federal, State, or local state(s) of emergency are put into effect, or when a public health emergency has been declared, Contractor shall comply with all guidance and recommendations of the Centers for Disease Control, the State of North Carolina, any applicable county, or Cary acting in its regulatory capacity unless mutually agreed to in writing by Cary and Contractor.
26. Waiver. No waiver by any Party of any of the provisions of the PCT shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the PCT, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the PCT shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
27. Compliance with Applicable Law; Conduct. Contractor and its officers, employees, agents, and subcontractors shall comply fully with all applicable Federal and State laws and regulations, including but not limited to Article 2, Chapter 64, of the North Carolina General Statutes regarding verification of work authorization; and laws related to gifts and favors, conflicts of interest and the like, including N.C.G.S. § 14-234. These laws and regulations shall not be deemed to be the exclusive laws and regulations applicable to the terms of the PCT.

Contractor’s officers, employees, agents, and subcontractors who come onto Cary property to perform Services shall comply with the same health and safety requirements that Cary has implemented for its employees through ordinance, policy,

procedure, directive of the Cary Manager, or other means (collectively, “Health and Safety Requirements”), as may be amended or enacted from time to time.

Additionally, These to the extent consistent with the terms and conditions of the PCT, Contractor agrees to support and abide by the applicable policies and elements of *Working with the Town of Cary*, available at <https://www.carync.gov/>. To the extent consistent with the terms the PCT, Contractor agrees to support and abide by the applicable policies contained therein.

28. Further Assurances. The Parties agree that they will cooperate to execute and deliver, or cause to be delivered, all such other instruments, and will take all such other actions, as the relevant Party reasonably requests from time to time in order to effectuate the provisions and purposes of the PCT.
29. No Waiver of Immunity. Nothing in the PCT shall be construed to mandate purchase of insurance by Cary pursuant to N.C.G.S. § 160A-485 or to in any way waive Cary’s defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent, or employee of Cary shall be subject to any personal liability by reason of the execution of the PCT or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute the PCT in their official capacities only, and not in their individual capacities. This Paragraph shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law.
30. Severability. If any provision of the PCT is held as a matter of law to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the PCT shall remain enforceable, and such invalid or unenforceable provision shall be enforced by such court to the maximum possible extent, provided that both Cary and Contractor preserve the substantial benefits of the terms bargained for in the PCT.
31. Survival. Termination of the PCT, for whatever reason, shall not terminate a Party’s representations and warranties nor nullify any indemnity hereunder. All representations, indemnifications, and other terms and conditions of the PCT which by their nature should survive the PCT’s termination shall survive its expiration or termination, including, but not limited to, the provisions of Paragraphs 13, 14, 15, 16, 17, 18, 29, 32, and 33.
32. Jurisdiction. The PCT is made in the State of North Carolina and shall be governed by the substantive provisions of North Carolina law without regard to conflict of laws provisions. The Parties agree that any legal action or proceeding with respect to the PCT shall be brought exclusively in the State courts of Wake County, North Carolina. Contractor consents to the personal jurisdiction of such courts, agrees to accept service of process by certified or registered mail, and hereby waives any jurisdictional or venue defenses otherwise available to it.

33. Performance of Government Functions. Nothing contained in the PCT shall be deemed or construed so as to restrict or inhibit Cary's police powers or regulatory authority.
34. Notice. Each Party shall deliver all Amendments, notices, schedules, attachments, appendices, requests, consents, claims, demands, waivers, and other communications under the PCT (collectively, "Notice") in writing and addressed to the other Party at the addresses set forth herein (or to such other address that the receiving Party may designate from time to time in accordance with this Paragraph). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid), or upon confirmation of receipt when sent via facsimile or email. Except as otherwise provided in the PCT, a Notice is effective only upon receipt by the receiving party or three (3) days after deposit in the United States mail or other service and if the party giving the Notice has complied with the requirements of this Paragraph.
35. Complete Contract; Amendment; Inconsistency. The PCT, including and together with any related and duly executed and acknowledged SOWs, Amendments, schedules, attachments, and appendices, constitutes the final, complete, and exclusive understanding between the Parties with respect to its subject matter and supersedes all prior or contemporaneous agreements between the Parties as to the subject of the PCT, including clickthrough agreements, clickwrap agreements, clickwrap licenses, or similar non-reciprocal agreements (collectively, "clickthrough agreement"). This Contract may be amended only by written amendment signed by both Parties. Neither Party may amend, or seek to amend, the PCT by clickthrough agreement. The Parties have not relied upon any promises, warranties, or undertakings other than those expressly set forth in the PCT. Unless otherwise (a) expressly agreed in writing and signed after the date of this agreement by both Parties, or (b) expressly provided in the PCT, any inconsistency between documents will be resolved in the following order of precedence: the PCT; the applicable SOW; the applicable Amendment.
36. Execution. The Contractor represents and warrants that the individual(s) signing the PCT have the right and power to do so and bind Contractor to the obligations set forth herein and such individuals do so personally warrant that they have such authority. The PCT may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Electronic signature is a valid method of execution. Cary may convert a signed original of the PCT to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources (or successor agency) approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the PCT shall be deemed for all purposes to be an original signed PCT. If required by N.C.G.S. § 159-28, the PCT is not deemed fully executed and is not effective until the Preaudit Certificate as required by that statute has been affixed and signed by the Cary finance officer or deputy finance officer.

ATTACHMENT A

STATEMENT OF WORK

1. THIS STATEMENT OF WORK (“SOW”) adopts and incorporates by reference the terms and conditions of the Principal Contract Terms (“PCT”) which was entered into by and between Town of Cary (“Cary”) and Contractor identified herein and in the PCT (“Contractor”) (together, “Parties”) as it may be amended from time to time. This SOW is effective beginning on Effective Date identified below and will remain in effect through the Length of Term identified below, unless earlier terminated in accordance with the PCT. Transactions performed under this SOW shall be conducted in accordance with and be subject to the terms and conditions of this SOW, the PCT, and any applicable purchase order (“PO”). This SOW is not a PO. Capitalized terms used but not defined in this SOW shall have the meanings set out in the PCT. In the event that any terms of this SOW are ambiguous or contradictory to terms contained in the PCT, the PCT shall control.

2. General Terms.

Contractor Corporate Name	
Effective Date of SOW	
Length of Term of SOW	
Cary Contact	
Contractor Contact	

3. Services.

[Describe the project goals and deliverables in detail, including the relevant conditions and guarantees as outlined in the Request for Proposal, the Proposal submitted to Cary, or agreed to in subsequent communications intended to become part of this SOW. Use the Work Schedule and Deliverables and Payment Schedule tables below if those are helpful and appropriate for your project. Otherwise, be sure to include that type of information in the Services section. The length of this section will vary by project and may be short or may be several pages long is needed to fully and adequately describe the project.]

4. Work Schedule and Deliverables. The relevant milestones, dates, and terms associated with this SOW are as follows:

Line Item/Order of Performance	Deliverable Description	Completion Date	Acceptance Criteria
1			
2			
3			

5. Payment Schedule. All costs listed below are based on the scope and assumptions included in this SOW.

Services or Goods	Price	Payment/Invoice Schedule (e.g.: monthly, weekly, final/completion, upon acceptable work, per fee schedule)	Payment Terms (if other than 30 days from receipt of valid invoice) (e.g. up to NTE, 60 days)

Not To Exceed (NTE): \$_____ (if applicable)

TOTAL: \$_____

Reimbursable Expenses: There are no reimbursable expenses unless the box below is checked and Attachment E, Reimbursable Expenses, is attached.

☐ Reimbursable Expenses Attachment included.

6. Key Personnel List (if applicable):

<u>Position</u>	<u>Name</u>

7. Subcontractors (if applicable):

<u>Subcontractor Corporate Name</u>	<u>Duties to be performed</u>

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IN WITNESS WHEREOF, the Parties hereto have executed this SOW.

[CONTRACTOR/COMPANY NAME]

By_____

Name:

Title:

Date:

TOWN OF CARY

By_____

Name:

Title:

Date:

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

Deputy Finance Officer

Date

ATTACHMENT B
TOWN OF CARY
SUPPLEMENTAL INSURANCE PROVISIONS

In addition to the Insurance obligations in Paragraph 6 of the Principal Contract Terms (“PCT”), the following designated supplemental insurance provisions are agreed to by the Contractor and the Town of Cary (“Cary”) and are incorporated by reference into the PCT between the Parties. All of the following coverages are required unless specifically indicated otherwise.

Commercial General Liability Insurance: Contractor and Contractor’s permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense Commercial General Liability Insurance, including contractual liability and covering bodily injury, property damage, products and completed operations, and advertising and personal injury.

Workers Compensation Insurance / Employer’s Liability Insurance: Contractor and Contractor’s permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense protection from claims under Worker’s or Workmen’s Compensation Acts covering claims arising out of or related to bodily injury, sickness, disease, or death of any of Contractor’s employees or subcontractors as required by state law.

Commercial Automobile Liability Insurance: Contractor and Contractor’s permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, covering bodily injury and property damage when vehicles are used in performance of work or coming onto Cary’s premises and in the course of performing services pursuant to this Contract.

☐ Not required per Cary Risk Manager.

Professional Liability/Errors & Omissions Insurance: Contractor and Contractor’s permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense Professional Liability/Errors & Omissions Insurance covering claims arising out of or related to Contractor’s performance under this Contract.

☐ Not required per Cary Risk Manager.

Cyber Liability: Contractor and Contractor’s permitted subcontractors shall purchase and maintain on a primary basis and at its sole expense Cyber Liability Insurance covering infringement, information theft, release of private information, damage, destruction and alteration of electronic information, extortion, network security, breach response costs and regulatory fines.

☐ Not required per Cary Risk Manager.

Additionally, the following provisions, as applicable, will apply to all required insurance coverage:

Coverage Required: Unless otherwise specified, minimum limits of insurance coverage are:

General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Commercial Automobile Liability	\$1,000,000 CSL
Commercial Excess/Umbrella Liability	\$1,000,000 per occurrence
Workers' Compensation	Statutory Limits
Employer's Liability	\$500,000 each accident
Professional Liability	\$1,000,000 per claim
Cyber Liability	\$2,000,000 per claim and aggregate

Contractor may satisfy the insurance limits above with a combination of primary and umbrella/excess liability insurance policies. Umbrella/Excess liability shall follow form as to each of the underlying policies. Any available insurance proceeds in excess of or broader than the specified minimum limits of insurance and coverage shall be available to Cary.

By requiring such minimum insurance, Cary shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Contract. Contractor shall assess its own risks and, if it deems appropriate and/or prudent, shall maintain higher limits and/or broader coverage.

Additional Insured Status

All insurance policies (except Workers Compensation, Cyber, and Professional Liability) shall name Cary, its elected officials, officers, employees, and volunteers as an additional insured.

Waiver of Subrogation

The insurer shall have no right of recovery or subrogation against Cary, its agents or agencies or insurers (if any), it being the intention of the Parties that the insurance policies shall protect Cary and be primary coverage for any and all losses covered by the policies.

Notice of Cancellation

Each policy shall provide that Cary shall receive not less than thirty (30) days prior written notice, when available, of any cancellation or non-renewal of coverage of any of the policies. Upon notice of such cancellation, non-renewal, or if a policy's limits are exhausted, Contractor shall procure substitute insurance so as to assure Cary that the minimum limits of coverage are maintained continuously throughout the periods specified herein.

Primary

Contractor's insurance coverage shall be primary for any claims related to the PCT without contribution from Cary or its insurance coverages, if any.

Insurers

The minimum insurance ratings for any company insuring the Contractor shall be Best's A-. Should the ratings of any insurance carrier fall below the minimum rating, Cary may, at its option, require the Contractor to purchase insurance from a company whose rating meets the minimum standard. Contractor's insurance carrier(s) shall be authorized to do business in the State of North Carolina. If Contractor is unable to find an authorized carrier for any line of insurance coverage, Contractor shall notify Cary in writing.

Verification of Coverage: A certificate of insurance and all endorsements required shall be provided at, or prior to, execution of the PCT. Cary's review or acceptance of certificates of insurance shall neither relieve Contractor of any requirement to provide the specific insurance coverage set forth herein nor shall it constitute a waiver or acknowledgement of satisfaction of the specific insurance requirements set forth in the PCT.

Certificate Holder address should read:

Town of Cary
PO Box 8005
Cary, NC 27512-8005

ATTACHMENT C

TEMPLATE PUBLIC RECORDS INDEMNITY AGREEMENT FORM

NOTE: THIS TEMPLATE PUBLIC RECORDS INDEMNIFICATION AGREEMENT IS BEING PROVIDED AS AN EXAMPLE OF THE FORM OF AGREEMENT THAT WILL BE REQUIRED TO BE EXECUTED BY CONTRACTOR PURSUANT TO PARAGRAPH ____ OF THE PRINCIPAL CONTRACT TERMS SHOULD CARY RECEIVE A PUBLIC RECORDS REQUEST TO WHICH CONTRACTOR'S CONFIDENTIAL INFORMATION IS RESPONSIVE. **DO NOT EXECUTE (SIGN) THIS FORM WHEN THE CONTRACT TO WHICH IT IS ATTACHED IS EXECUTED.**

Contractor acknowledges that records in the custody of Cary are public records and subject to public records requests. Cary may provide copies of such records, including copyrighted records, in response to public record requests, except that, upon request of and indemnification by Contractor, Cary will not disclose records that meet all of the requirements of a trade secret as set forth in N.C.G.S. § 66-152, that are specifically designated as a "trade secret" or "confidential" at the time of initial disclosure by Contractor, and that are otherwise entitled to protection under N.C.G.S. § 132-1.2(1).

If a public record request is made on Cary for a record of Contractor that meets the requirements of Confidential Information, then Town shall notify Contractor. If Contractor, within ten (10) days of such notice, provides written notice to Cary that the requested information is Confidential Information entitled to be withheld from public inspection and copying ("PR Notice"); then Cary shall withhold such information from public access based upon Contractor's agreement to indemnify and hold Cary harmless from and against all loss, costs, and expenses, including attorneys' fees, that may be incurred for withholding. Contractor understands and acknowledges that Cary is subject to legal action and the imposition of attorney's fees if public records are wrongly withheld from disclosure. If Contractor does not provide PR Notice within ten (10) days of notice that Cary has received a public record request, then such record shall be deemed to be not Confidential Information and Contractor hereby agrees and consents that Cary may release such record pursuant to the public records request.

If Contractor provides PR Notice to Cary, Contractor represents and warrants that the specific identified information requested to be withheld are 'trade secrets' as such term is defined in Chapter 66, Article 24 of the North Carolina General Statutes (N.C.G.S. § 66-152(3)) and such information is entitled to be withheld from public inspection and copying in accordance with Chapter 132, Public Records, of the North Carolina General Statutes (N.C.G.S. § 132-1 et seq, specifically N.C.G.S. § 132-1.2). Contractor understands and intends that Cary, its officers, agents and employees rely on such representations and warranties.

Contractor shall indemnify and hold Cary, its officers, agents and employees ('Indemnitees') harmless from and against any and all claims, losses, liabilities, costs, expenses, charges, penalties, fines and damages, including the assessment of

attorneys' fees, arising from, or related to the withholding of records from inspection under the Public Records Act, Chapter 132 of the North Carolina General Statutes. Contractor shall be responsible for all expenses incurred by the Indemnitees in their defense of any claim, suit, or action within the scope of this indemnification and for all expenses and damages that might be assessed against the Indemnitees as a result of withholding such records or information from public inspection. If a claim, suit, or action is threatened Indemnitees may demand that Contractor post a bond or other form of financial guarantee to guaranty and assure the satisfaction of this indemnification obligation.

ATTACHMENT D

INFORMATION TECHNOLOGY SERVICES TERMS AND CONDITIONS

If Contractor is providing IT Services, as that term is hereinafter defined, to Cary as part of the Services required by the Principal Contract Terms (“PCT” or “Contract”) into which this Attachment is incorporated, the following terms and conditions shall apply to the provision of those services.

Definitions. For the purpose of this Attachment, the following definitions apply together with definitions contained in the body of this Attachment. Any capitalized terms used in this Attachment and not defined herein shall have the meanings ascribed to those terms in the PCT.

“Authorization Codes” – means passwords, IDs, or authorization codes.

“Business Continuation Plan” – means Contractor’s plan to address any unplanned interruption of the IT Services which will include the following objectives: (i) written disaster recovery plans for critical technology and infrastructure; (ii) proper risk controls to facilitate continued performance under the PCT and this Attachment in the event of a disaster; and (iii) establishing the capability to provide reasonably uninterrupted access to the IT Services during the disaster within the recovery time objectives approved by Cary.

“Cary Data” -- means any information or data from Cary and partner agencies including Morrisville Fire, Morrisville Police, Apex Fire, and includes, but is not limited to, electronic data and information submitted by or for Cary to the IT Services, excluding Content, and information that is collected, stored, transmitted, processed, or used, as well as information generated as a result of Cary’s use of the IT Services and Contractor’s provision of IT Services. As a point of clarity, Cary Data includes Cary Confidential Information, as defined in the PCT, and any account Authorization Codes issued to Contractor or Contractor Personnel for purposes of accessing Cary’s systems. Cary Data does not include Content.

“Content” -- means information created by Contractor or obtained by Contractor from publicly available sources or third-party content providers and made available to Cary through the IT Services, or pursuant to the PCT or a Statement of Work, excluding Cary Data.

“Contractor Intellectual Property” -- means intellectual property, including trade secrets, ideas and concepts, methodologies, techniques, templates, generic tools, processes, software, routines, algorithms, expressions, and data conceived, developed or reduced to practice by Contractor prior to or independent of the performance of the PCT, including modifications and derivative works, and excluding Cary Data.

“Documentation” -- means the user manuals existing from time to time and all other documentation that is reasonably necessary for an end user to operate the IT Services, including but not limited to any documentation referenced in the PCT. Contractor shall provide Documentation that completely and accurately describes in all material

respects the operation of the IT Services, and published user manuals for all updates and new releases of the IT Services.

“Improvements” – means bug fixes, corrections, modifications, upgrades, updates, enhancements, release notes, and all other changes to the IT Services or Documentation whether for the purpose of fixing an error or bug or to address other issues, or to otherwise enhance functionality.

“Intellectual Property Rights” – means patent rights, trademark rights, copyrights (including, rights in audiovisual works and moral rights), trade secret rights, and any and all other intellectual property rights of Cary or Contractor, including all current and future rights.

“IT Services” – means Information technology services consisting of the services, functions and responsibilities described in the PCT and any applicable Statement of Work, as they may evolve or be supplemented, enhanced, modified, or replaced.

“Security Breach” – means unauthorized disclosure of, use of, or access to Cary Data and partner agencies including Morrisville Fire, Morrisville Police, Apex Fire, or any other compromise of Cary Data and partner agency data including Morrisville Fire, Morrisville Police, Apex Fire.

“Specifications and Requirements” -- means all definitions, descriptions, requirements, criteria, and performance standards relating to the IT Services which are set forth or referenced in the Documentation, an applicable SOW, or any other materials published by the Contractor or its licensors from time to time describing the functional and/or technical specifications with respect to all or any part of the IT Services.

“Statement of Work” or “SOW” – means each statement of work executed by Cary and Contractor (together with all exhibits, schedules, attachments, and other materials that are appended to, or incorporated by reference into the statement of work), that specifically refers to and is governed by the PCT.

“Work Product” - means the Deliverables and all other writings, technology, inventions, discoveries, processes, methods, ideas, concepts, research, proposals, and materials, and all other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, modified, conceived, or reduced to practice by or on behalf of Contractor solely or jointly with Cary or others in the course of performing the Services or other work performed by or on behalf of Contractor in connection with the Services or the PCT at any time during the Term, and all printed, physical, and electronic copies and other tangible embodiments of any of the foregoing.

1. Provision of IT Services. Contractor will (a) make the IT Services and Cary Data available to Cary and partner agencies including Morrisville Fire, Morrisville Police, Apex Fire, (b) provide applicable support for the IT Services to Cary at no additional charge, and/or upgraded support if purchased as set forth in a SOW, (c) make the IT Services available 24 hours a day, 7 days a week and as may be provided in any support related

documentation as referred to in Section 10, except for: (i) planned downtime (of which Contractors shall give advance electronic notice), and (ii) any unavailability caused by a Force Majeure Event as defined in the PCT, Internet service provider failure or delay, non-Contractor application, or denial of service attack.

2. Performance of IT Services. The IT Services will be performed and will perform in conformity with the Documentation and the Specifications and Requirements and any other terms, conditions, specifications, and requirements set forth in an applicable SOW. In addition:
 - a. Contractor shall provide all training necessary for Cary to use the IT Services.
 - b. Any required integration, support, or implementation services will be described in a Statement of Work.
 - c. Contractor shall provide ninety (90) days' written notice to Cary prior to implementing any Improvements that materially and substantively affect the functionality of the IT Services or the delivery of services. If Contractor reduces, degrades, changes, or eliminates the Specifications and Requirements or functionality in the IT Services in any material way, Cary is entitled to immediately terminate the PCT without liability and Contractor shall return a pro rata portion of any prepaid fees relating to any unused portion of IT Services, in addition to any other rights and remedies under the PCT or at law.
 - d. Nothing in this Attachment or the PCT precludes Cary from obtaining the same or similar IT Services from another contractor.
 - e. In the event Contractor provides any third party software, including Open Source Software, or other intellectual property owned by a third party (the "**Third Party Software**"), to Cary in connection with the PCT or this Attachment for which Cary would be obligated to accept and be bound by any third party terms and conditions, Contractor shall: (1) specifically identify in writing all Third Party Software in the applicable Statement of Work; and (2) attach to the applicable Statement of Work written copies of all third party license agreements applicable to Cary.
3. Access to and Use of Content and Work Product.
 - a. In the event Contractor is creating Work Product, as specifically identified in the SOW, Cary is and will be the sole and exclusive owner of all right, title, and interest in and to all Work Product, including all Intellectual Property Rights therein. Contractor acknowledges and agrees that any and all Work Product that may qualify as "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101) is hereby deemed "work made for hire" for Cary and all copyrights therein shall automatically and immediately vest in Cary. In the event Contractor creates Work Product that requires a license, Contractor will convey with the ownership of Work Product, a perpetual license required for the operation of the Work Product.
 - b. Cary has the right to access and use Content. Contractor grants to Cary a fully paid, world-wide, non-exclusive license to use the Content and Documentation, which includes a license to use IT Services and all Intellectual Property Rights embedded in the Content, as well as any Improvements to the IT Services or the Content.
 - c. Authorization Codes. Contractor shall provide any Authorization Codes that Cary will need to use the IT Services as contemplated in the PCT and in any applicable

SOW, and in disaster recovery, development, emergency, user support and other technical environments and to obtain the full benefit of its license and other rights in the IT Services. Authorization Codes will be fully functional on all systems and all processing cores and will not expire unless and until the PCT and/or applicable SOW is terminated.

- d. Number of Users. Pursuant to the applicable SOW, Cary is entitled to increase or decrease the number of users on an as-requested basis at any time during the term of the PCT.
 - e. Use by Contractors. Cary may allow access to the IT Services and Content by third-party contractors engaged by Cary to use, operate, implement, integrate, or modify the IT Services or Content on behalf of Cary.
 - f. Outsourcing. Cary may also authorize a third party to use the IT Services, including Content and Cary Data, in connection with the outsourcing of one or more of Cary's information systems operations.
4. Cary Data. As between the parties, Cary owns all right, title, and interest (including, without limitation, all Intellectual Property Rights and proprietary rights) in and to Cary Data.
- a. Rights of Access and Use. Cary has the right to use the IT Services to access and retrieve Cary Data at any time.
 - b. Security. Contractor shall provide a secure environment for receipt, storage, and transmission of Cary Data, including without limitation the use of end-to-end encryption, both for data in transit and at rest. All Cary Data must be stored in secure directories that require access authentication including support for multi-factor authentication. Contractor is responsible for any disclosure or dissemination of Cary Data and for costs, fines, and damages that Cary may incur resulting from the failure of Contractor's systems during the transmission of Cary Data.
 - c. Location. Contractor shall advise Cary of the facility in which Cary Data are stored and shall not relocate, store, or process Cary Data outside the continental United States, except with advance written consent of Cary. Contractor is responsible for costs, fines, and damages that Cary may incur if Contractor permits an unauthorized export.
 - d. Back-ups. In addition to the Business Continuation Plan, Contractor shall maintain a backup of Cary Data, for an orderly and timely recovery of Cary Data in the event that the IT Services are interrupted. Contractor shall perform daily backups. Full system backups and server image backups must be performed monthly. Monthly system images and Cary Data must be securely uploaded and stored off-site at a data management facility. Daily backups must be retained for at least thirty (30) days. Monthly backups must be retained for at least three (3) months.
 - e. License to Host Cary Data and Applications. Subject to the provisions of PCT and this Attachment, Cary grants Contractor, its affiliates and applicable contractors a worldwide, limited-term license to host, copy, transmit and display Cary Data created by or for Cary using IT Services or for use by Cary with IT Services, as reasonably necessary for Contractor to provide the IT Services in accordance with the PCT and this Attachment and for no other purpose. Subject to the limited licenses granted herein, Contractor acquires no right, title or interest from Cary or Cary's licensors under the PCT and this Attachment in or to any of Cary Data.

Contractor and Contractor personnel may not access, collect, store, transfer, or otherwise use Cary Data except in the interest and on behalf of Cary in the performance of the PCT and this Attachment. In addition to and not in limitation of the foregoing and for clarity, under no circumstances may Contractor sell Cary Data or use or permit the use of any Cary Data or any derivatives thereof in connection with any artificial intelligence, machine learning, or other similar or related software applications, whether or not such use would otherwise be permitted by the license granted hereby.

5. Termination Assistance, Cary Data Portability, and Deletion. Upon the expiration or termination of the PCT or if Contractor is the named debtor in any bankruptcy or insolvency proceeding or has made a general assignment for the benefit of its creditors, Contractor shall provide all reasonable and necessary assistance to Cary to allow for a smooth transition to Cary or its designee and promptly return to Cary all programs, reports, Cary Data, Confidential Information, flow diagrams, materials, and work in process generated as part of Cary's use of IT Services or the PCT. Upon request by Cary made within 30 days after the effective date of termination or expiration of the PCT, Contractor will make Cary Data available to Cary for export or download in commercially accessible formats. Contractor will not delete or destroy any Cary Data in its systems or otherwise in its possession or control, unless and until it has received written acknowledgment from Cary that Cary has exported or downloaded Cary Data it requires. Contractor shall delete Cary Data upon written request of Cary and provide certification of destruction of Cary Data after Cary Data is received and validated by Cary.
6. Protection of Cary Data. Contractor will maintain appropriate administrative, physical, and technical safeguards sufficient for the protection of the security, confidentiality, and integrity of Cary Data. Those safeguards will include, but will not be limited to, appropriate measures for preventing access, use, modification, or disclosure of Cary Data by Contractor or Contractor personnel except (a) to provide the IT Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Cary expressly permits in writing.
 - a. If Contractor should receive any legal request or process seeking disclosure of Cary Data or be advised by counsel of any obligation to disclose Cary Data, Contractor shall (to the maximum extent allowed by applicable law) provide Cary with prompt prior notice of the request or advice so that Cary may seek a protective order or pursue other appropriate remedies to protect the information. Contractor shall furnish only that portion of Cary Data which is legally required to be furnished and, in consultation with Cary, shall use all reasonable efforts to ensure that Cary Data is maintained in confidence by the third party to whom it is furnished.
 - b. During the term of the PCT and thereafter, Contractor shall comply with all applicable laws that relate to the confidentiality, security and protection of personally identifiable information, customer information, electronic data privacy, trans-border data flow, or data protection.
7. Data Security Measures. Contractor shall establish and maintain a data security program that includes reasonable administrative, technical, and physical policies, procedures, and safeguards for the protection of Cary Data in the possession and control of Contractor and its representatives. Contractor's data security program shall be designed to protect (i) the security, integrity, availability, and confidentiality of Cary Data, (ii) against anticipated

threats or hazards to the security of Cary Data, and (iii) protect against unauthorized access to Cary Data. Without limiting the generality of the foregoing, Contractor will take all reasonable measures to secure and defend its location and equipment against “hackers” and others who may seek, without authorization, to modify or access Contractor’s systems or the information found therein without consent. Contractor will periodically test its systems for potential areas where security could be breached. Contractor’s data security program shall be no less rigorous than (a) those maintained by Contractor for its own information of similar nature, and (b) industry standard best practices. Contractor shall: (1) process Cary Data only in accordance with the reasonable instructions of Cary, (2) protect Cary Data, (3) promptly notify Cary of any unauthorized or unlawful processing of Cary Data of which it becomes aware, (4) except as otherwise agreed, promptly delete, or at Cary’s option, return Cary Data when no longer needed for the provision of the IT Services, and (5) not place Cary in breach of any applicable privacy laws or regulations.

8. Breach of Cary Data.

- a. If Contractor discovers, suspects, or is otherwise made aware of (a) any Security Breach, or (b) any condition that is likely to result in Security Breach, Contractor shall (i) promptly report (but in no event more than twenty-four (24) hours following discovery or suspicion) the Security Breach or likely Security Breach to Cary, (ii) immediately, to the extent possible, secure the affected systems to prevent further or continuing breaches, (iii) promptly investigate such breach, perform a root cause analysis, and (iv) remediate the cause of such breach of security on Cary Data and provide Cary with reasonable assurances that such breach will not recur.
- b. Contractor shall mitigate, in a timely manner and to the extent practicable, any harmful effects of any Security Breach. Contractor shall cooperate with Cary in investigating and responding to any Security Breach, including, without limitation, observing any reasonable requests made by Cary to ensure compliance with applicable law, and providing any notices that Cary deems appropriate. Upon Cary’s request, Contractor shall deliver to Cary a root cause assessment and future incident mitigation plan with regard to any Security Breach that sets out written details regarding Contractor’s investigation and remediation of the Security Breach.
- c. To the extent any Security Breach is attributable to a breach by Contractor or Contractor personnel of Contractor’s obligations under the PCT, and applicable law requires Cary, or other affected individuals be notified of a security incident involving Cary Data, Cary shall have the exclusive right to determine whether notice will come from Cary or Contractor. In any event, the content, timing, and other details of the notice are subject to Cary’s approval, in Cary’s sole discretion.
- d. Contractor shall bear the costs incurred in complying with its legal obligations relating to the Security Breach, and in addition to any other damages for which Contractor may be liable under the PCT and this Attachment, Contractor shall bear the following costs which may be incurred by Cary in responding to the breach, to the extent applicable: (a) the cost of providing notice to affected individuals, government agencies, credit bureaus, and other required entities (which may include, without limitation, print services, postage, and obtaining contact information for affected individuals); (b) the cost of providing affected

- individuals with credit monitoring services and identity theft mitigation services for a specific period to the extent Cary determines the incident could lead to a compromise of the affected individuals' credit or credit standing or identity theft, or if required by applicable law; (c) the cost of call center support for affected individuals; (d) forensics services; (e) fines imposed by credit card associations, merchant banks or financial account institutions and costs passed on by individual card companies, banks, and other financial institutions; (f) the cost of any other measures required under applicable law; and (g) any other losses for which Contractor would be liable under the PCT or this Attachment.
- e. Contractor shall defend and indemnify Cary and its affiliates, employees, officers and agents from and against any third-party claim that arises out of any data security breach involving Cary Data in Contractor's control or possession.

9. Audit and Environmental Control.

- a. Contractor shall use reasonable industry measures designed to protect the operating environment of the IT Services against unauthorized physical access and the threats of fire, power, temperature, humidity, and other physical forces. Contractor shall provide advance written notice of (a) material changes to the hosted environment or (b) any change that may result in degradation of services or functionality or which may expose Cary or Cary Data to risk.
- b. Contractor shall maintain antivirus protection software on all hosted systems. In the event viruses, worms, or similar problems are determined to have infected the Contractor-hosted system, Contractor shall use reasonable efforts to restore the system as quickly as reasonably possible.
- c. In the event of a service disruption to any platform of Contractor used to provide the IT Services, Contractor shall: (i) formally notify Cary of the service disruption and (ii) provide a Business Continuation Plan to Cary within five (5) days of the notification which shall include a detailed plan which demonstrates Contractor's actions to ensure its contractual obligations under the PCT are fulfilled.
- d. Contractor shall maintain complete and accurate records relating to its data security program and the security of Cary Data, during the term of the PCT and for two (2) years thereafter. Upon Cary's request, Contractor shall make these records, appropriate personnel, and other relevant materials available during normal business hours for inspection and audit by Cary or its third party designee, if Cary: (a) gives Contractor thirty (30) days' prior notice of any audit; (b) undertakes an audit no more than once per calendar year, except for good cause shown; and (c) conducts or causes to be conducted an audit in a manner designed to minimize disruption to Contractor's business.
- e. During the term of the PCT, Contractor shall cause a SOC 2 Type II report (or equivalent report) covering security, availability, confidentiality, processing integrity, and privacy to be prepared at least annually by a leading contractor of these types of reports in respect of the IT Services. Upon Cary's request, Contractor shall provide Cary a copy of the report.
- f. Upon Cary's request, Contractor shall provide to Cary a written summary of the results of the most recent vulnerability assessment, sufficient in scope and content to provide a fair representation of the level of risk associated with each vulnerability identified, within three (3) business days of the request.
- g. Cary may conduct penetration testing of the IT Services and its environment(s) without advance notice.

10. Support Services. Contractor shall perform support (and enhanced support, only if applicable) so as to meet or exceed the service levels described in the applicable SOW or other documentation, such as a service level agreement, that sets forth the service levels to be provided by Contractor.
11. Contractor's Intellectual Property. Contractor retains exclusive title to Contractor Intellectual Property. In addition, Contractor retains the right to use any general knowledge, expertise, or know-how developed in the course of provision of Services under the PCT.
12. Contractor Warranties.
- a. Contractor warrants that during an applicable term (a) the PCT, any SOWs, and Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Cary Data and (b) Contractor will not materially decrease the overall security of the IT Services.
 - b. Contractor represents and warrants that during the term of the PCT and any renewal periods ("Warranty Period"), the Services will fully comply with the SOWs, and Documentation and all applicable Federal, State, and local laws and regulations, and that the functionality of the IT Services will not decrease. During this Warranty Period, the Contractor shall promptly either repair or replace any defective IT Service at no additional charge to Cary. If the Contractor is unable to totally cure any defective IT Service within thirty (30) days after receipt of notice from Cary, Cary shall have the right to immediately terminate the PCT by written notice to the Contractor, and Contractor shall return a pro rata portion of any prepaid fees relating to any unused portion of IT Services (including but not limited to any implementation, maintenance, and training fees), plus the reasonable incremental cost of any replacement service acquired by Cary. This remedy is without limitation of any other remedies Cary may have at law or under the PCT. Modification of the IT Services by Cary or its subcontractors will not eliminate the above warranty, except for defects that are directly caused by such modification.
 - c. Contractor represents and warrants that neither the IT Services nor any Contractor Intellectual Property shall contain any Destructive Mechanisms that may cause or have potential to cause harm to Cary's Data and/or network(s). "**Destructive Mechanisms**" means computer code that: (i) is designed to disrupt, disable, harm, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of the IT Services or Contractor Intellectual Property or any other software, firmware, hardware, computer system, or network (sometimes referred to as "viruses" or "worms"); (ii) would disable or impair the IT Services or Contractor Intellectual Property or any other software, firmware, hardware, computer systems, or networks in any way where such disablement or impairment is caused by the passage of time, exceeding an authorized number of copies, advancement to a particular date or other numeral (sometimes referred to as "time bombs," "time locks" or "drop dead" devices); (iii) would permit Contractor to access the IT Services or Contractor Intellectual Property or any other software, firmware, hardware, computer systems, or networks to cause such disablement or impairment (sometimes referred to as "traps," "access codes" or "trap door" devices); or (iv) which contains any other similar harmful, malicious, or hidden procedures, routines, or mechanisms which would cause such IT

Services or Contractor Intellectual Property or other programs to cease functioning or to damage or corrupt data, storage media, programs, equipment, or communications or otherwise interfere with operations.

- d. Contractor represents and warrants that the Documentation is complete and accurately describes the IT Services in all material respects and enables users of the IT Services to fully utilize the IT Services for all purposes for which it is being acquired by Cary. The Contractor further represents and warrants that, for so long as support and maintenance services are provided to or purchased by Cary, the Documentation will be updated to reflect all new versions, releases, or modifications of the IT Services delivered to Cary, and such updated Documentation will be of equal or greater quality to the initial Documentation provided to Cary. Any such updated Documentation will be delivered at the same time as the new version, release, or modification to which the Documentation update applies.
- e. Contractor represents and warrants that (a) Contractor owns all right, title and interest in and to the IT Services and has full legal right to license all the Intellectual Property Rights necessary to grant any applicable licenses in the IT Services, (b) entering into and carrying out the terms and conditions of the PCT will not violate or constitute a breach of any agreement binding upon Contractor, and (c) as of the date on which Contractor delivers the IT Services (and also on the date of delivery of each Improvement), there is no claim or litigation regarding Contractor's ownership or the right to license all the Intellectual Property Rights necessary to grant any applicable licenses in the IT Services. Contractor represents and warrants there is no proceeding pending or (to the best of Contractor's knowledge) threatened against Contractor with respect to the IT Services or any component thereof alleging infringement or misappropriation of any patent, trademark, copyright, or any trade secret or other proprietary right of any person or entity.
- f. Contractor represents and warrants that neither the IT Services, Content, nor Contractor Intellectual Property or other materials provided by Contractor or Contractor personnel used in the provision of the IT Services do or will infringe upon any third party's confidentiality protections or Intellectual Property Rights. Contractor further represents and warrants that neither the IT Services, Content, nor Contractor Intellectual Property or other materials provided by Contractor or Contractor personnel do or will infringe upon any third party's confidentiality protections or Intellectual Property Rights when used by Cary; EXCEPT THAT THE FOREGOING WARRANTIES WILL NOT APPLY TO ANY INFRINGEMENT RESULTING SOLELY FROM CONTRACTOR'S USE OF TOOLS, INSTRUCTIONS, SPECIFICATIONS OR OTHER MATERIALS PROVIDED BY CARY TO CONTRACTOR, OR WHERE THE INFRINGEMENT RESULTS SOLELY FROM ANY MODIFICATION BY CARY OR ANY THIRD PARTY WITHOUT CONTRACTOR'S PRIOR WRITTEN CONSENT.
- g. Contractor represents, warrants, and covenants that its performance and the IT Services to be provided hereunder shall comply with all applicable laws, rules and regulations related to privacy, confidentiality, consumer protection, electronic mail, and data security, including, as applicable, the Health and Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320d) ("**HIPAA**"), the Health Information Technology for Economic and Clinical Health Act of 2009 (42 U.S.C. §17935) ("**HITECH Act**"), the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) ("**ARRA**"), if applicable, the California Consumer Privacy Act of 2018 (Cal. Civ. Code. §1798.100 et seq.) ("**CCPA**") (and as amended from time to time, including the

California Privacy Rights Act of 2020, when in effect),(collectively, the “**Privacy and Security Laws**”).

- h. Contractor represents and warrants that IT Services complies with Section 508 of the Rehabilitation Act of 1973, as amended, and all other laws, rules, and regulations with respect to accessibility for individuals with disabilities, if applicable. If Cary receives a complaint or concern regarding the accessibility of the product or service, Contractor agrees to promptly respond and resolve such concerns. Contractor further agrees to indemnify and hold Cary harmless for any claims arising from the inaccessibility of its product or service.

ATTACHMENT E

REIMBURSABLE EXPENSES

Reimbursable expenses are permissible only as long as they are accrued consistent with this Attachment and identified in the Principal Contract Terms ("PCT") and Statement of Work (SOW).

Cary will reimburse actual and reasonable out-of-pocket expenses associated with travel related to the Services and such other actual and reasonable out-of-pocket expense in advance in writing and not to exceed amount of _____ dollars and 00/100 dollars (\$XXXX.XX). Mileage and tolls shall be invoiced at Internal Revenue Service (IRS)-approved rates. Out of town travel, airfare, hotel, ground transportation, and meal expenses will be billed at cost in accordance with the following guidance:

Approval and Expense Submission. Contractor will always verify with Cary for Cary specific policies and requirements before incurring travel expenses. If written approval is required by Cary, Contractor will obtain approval before incurring travel expenses and will use corporate discount numbers whenever possible. Contractor will submit for expense reimbursement within 30 days of the date the expense is incurred, which will include detailed receipts for all expenses over USD \$10.00. The following checked expenses are eligible for reimbursement.

- ☐ Air Travel. Contractor will make domestic and international airline reservations at the least expensive coach class airfare available which satisfies the business requirements of the trip (even if it is not a preferred airline). Travel time will be calculated based on the time from the departure airport to Cary office location or hotel, whichever is appropriate.
- ☐ Lodging. Cary will reimburse Contractor for the cost of reasonable accommodations when an employee is required to be away from home overnight on company business. When booking travel accommodations, Contractor employees will, (a) attempt to find nightly room rates no more than USD \$200, exclusive of tax; (b) present a detailed hotel/motel statement to Cary for reimbursement; (c) list hotel charges other than lodging and the associated taxes (i.e., Meal-Traveling, Telephone-Local) as separate expenses when they are submitted; and (d) limit reimbursable incidentals to reasonable amounts as approved by Cary. Movies in hotel rooms will not be reimbursable.
- ☐ Car Rental. The rental car standard is midsize; full size may be rented when business needs dictate. When booking rental cars, Contractor employees will, (a) charge all fees to a credit card; (b) not accept the refuel option; cars must be refueled before returning to the airport. Rental Company refueling charges will only be reimbursed in extreme cases, and employees will document the reason on the expense report.
- ☐ Meals. Reimbursement costs are limited to reasonable amounts but should not exceed USD \$50 per person per day without Cary written approval. When purchasing meals, Contractor employees will, (a) present to Cary for

reimbursement credit card and detailed receipts from all establishments which accept credit cards; (b) present to Cary for reimbursement detailed receipts for all meals paid in cash; (c) pay tips fairly and in conjunction with the services received. Tips included with qualified business meals are reimbursable up to a 20% maximum.

Phone Usage. Cary will not be required to reimburse Contractor for any personal, cellular or air phone usage unless Contractor employee receives prior approval in writing from Cary.

APPENDIX

- A. CAD Use Cases
- B. CAD Detailed Requirements (Functional, Non-Functional)
- C. CAD Technical Requirements Response Form
- D. CAD Services Requirements Response Form
- E. CAD Interfaces List
- F. Cost Proposal Template
- G. Glossary of Terms