



Request for Qualifications # 274-2025-CM-08

**Title: Request for Qualifications for Commissioning Services for
GoWake/GoRaleigh Access Transit Facility**

Issue Date: 03/5/2025

Due Date: 04/7/2025 at 4:00 PM EST

**Issuing Department: Engineering Services Department;
Construction Management -Public Safety
& Special Project Division**

Direct all inquiries concerning this RFQ to:

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1 INTRODUCTION

1.1 Purpose

The City of Raleigh invites qualified and experienced firms to submit qualification packages for Request for Qualifications (RFQ) solicitation for professional commissioning services for the design and construction of the following project:

GoWake/GoRaleigh Access Transit facility, at a site located at the northeast of intersection of Poole Road & New Hope Road in Raleigh, NC.

All information related to this solicitation, including any addenda, will be posted to the North Carolina Electronic Vendor Portal (eVP) at <https://evp.nc.gov/>.

The selected firm(s) will work with the Owner, Designer and other consultants to complete the project. In addition to the design team, the selected consultant will be required to coordinate and work cooperatively with other consultants hired by the City. The City anticipates having other consultants for cost estimating, special inspections, construction materials testing, and other services that may arise.

All information related to this solicitation, including any addenda, will be posted to the North Carolina Electronic Vendor Portal (eVP) at <https://evp.nc.gov/>.

City reserves the right to reject any or all proposals for any reason and to waive any informality it deems in its best interest.

A detailed scope of services for the project is provided in **Section 4 Scope of Services**.

1.2 Background

The City of Raleigh, the Capital City of North Carolina, remains one of the fastest-growing areas in the country. A great economy, top educational institutions, and exceptional healthcare facilities are some of the characteristics that attract people to the Triangle area. The mild climate, diverse workforce, and proximity to Research Triangle Park combine to make Raleigh a great place to live.

Raleigh is a 21st-century City of Innovation focusing on environmental, cultural, and economic sustainability. The City conserves and protects our environmental resources through best practices and cutting-edge conservation and stewardship, land use, infrastructure, and building technologies. The City welcomes growth and diversity through policies and programs that will protect and enhance Raleigh's existing neighborhoods, natural amenities, history, and cultural and human resources for future generations. The City leads to improved quality of life for neighborhoods and standard of living for all citizens. The City works with universities, colleges, citizens, and local partners to promote new technology, create new job opportunities, and encourage local businesses and entrepreneurs. The City enlists and prepares 21st-century staff with the skill sets to carry out the duties of the City through transparent civic engagement and by providing the very best customer service to our citizens.

The Engineering Services Department is recognized as a leader in providing full-service, comprehensive engineering and facility operational service for the City. The department's

vision focuses on innovative, efficient, and effective management and delivery of modern public infrastructure assets for the Raleigh community. This is accomplished through strategic planning, key partnerships, teamwork, and collaborative implementation leading to focused, measurable, and beneficial results and outcomes.

1.3 RFQ Timeline

Provided below is a list of the anticipated schedule of events related to this solicitation. The City of Raleigh reserves the right to modify and/or adjust the following schedule to meet the needs of the project. All times shown are Eastern Time (ET):

RFQ Process	Date and time
Registration and Questions, e-mail to:	Alex Shapiro, Project Manager E-mail: Alexander.Shapiro@raleighnc.gov
RFQ Advertisement Date	03/5/2025
Deadline for written questions	03/21/2024
City Response to Questions (anticipated)	03/26/2024
Submittal Due Date and Time	04/4/2024 at 4:00 pm EST
Interview Notifications (anticipated)	Allow two weeks post due date. The Project Manager will contact firms selected for interviewing.
Interviews (anticipated dates)	4/22 – 4/24/2025

1.4 Registration, Pre-Submittal Conference

All Submitting Firms are encouraged to establish intent to submit by emailing the Project Manager. The City will **not** conduct a Pre-Submittal Conference

1.5 Questions

Requests for clarification and questions to this RFQ must be received by the City not later than the date shown above in Section 1.3 RFQ Timeline, after which time no future questions will be accepted. The firm’s failure to request clarification and submit questions by the date in the RFQ Timeline above shall be considered to constitute the firm’s acceptance of all the City’s terms and conditions and requirements. Questions submitted via telephone will not be answered. Clarifications and questions must be written and/or submitted electronically to the Project Manager.

The City shall issue addenda reflecting questions and answers to this RFQ, if any, and shall be posted to the North Carolina eVP website. No information, instruction, or advice provided

orally or informally by any City personnel, whether made in response to a question or otherwise in connection with this RFQ, shall be considered authoritative or binding. Respondents shall be entitled to rely *only* on written material contained in an Addendum to this RFQ.

It is important that all Firms submitting to this RFQ periodically check the North Carolina eVP website for any Addenda. It is the Submitter’s responsibility to ensure that all addenda have been reviewed and, if required signed and returned.

1.6 Submittal Requirements

Responses must follow the format as defined in Section 2, Qualifications Package, and be addressed and submitted as follows (Allow adequate time for USPS delivery):

<p><u>DELIVERED BY US POSTAL SERVICE</u> <u>MAIL:</u></p>	<p><u>DELIVERED BY OTHER SERVICES:</u></p>
<p>Attn: Alexander Shapiro City of Raleigh Engineering Services/Construction Management - PSSP Division PO Box 590 Raleigh, NC 27602-0590 RFQ #274-2025-CM-08</p> <p>(Allow adequate time for US postal service delivery)</p>	<p>Attn: Alexander Shapiro City of Raleigh Engineering Services/Construction Management -PSSP Division One Exchange Plaza 219 S. Fayetteville Street, Suite 801 Raleigh, NC 27602 RFQ #274-2025-CM-08</p> <p>(during normal business hours)</p>

Submittal Package Requirements:

Submit all documents in a sealed envelope. Complete and enclose the **checklist provided as Appendix VI** to the submittal package with the name of the submitting company, the RFQ number, and the RFQ title.

- A. Paper Submittal: **Two (2)** signed hard copies of the Submitter’s qualifications package including MWBE documentation, appendices, and all other required documentation. Do not include Financial Statements and hourly rates within this submittal package. See the Confidential Submittal below for instructions.
- B. Electronic Submittal: **Two (2)** electronic versions, viewable and printable, portable document file formatted (PDF) files on separate flash drive storage devices. Do not include Financial Statements and hourly rates within this electronic submittal. See the Confidential Submittal below for instructions.
- C. Confidential Submittal: **One (1)** hard copy and **One (1)** electronic version, viewable and printable Portable Document File format (PDF) flash drive storage device containing financial statements listed in Section 2, Tab 2, and an hourly rates schedule (Appendix I) placed in a separate, sealed envelope, marked confidential.

D. Refer to Appendix III – Reference Questionnaire Submittal requirements for submittal requirements.

Submitter firms must respond to the entire RFQ. Any incomplete responses may be eliminated from consideration at the discretion of the City of Raleigh. The City reserves the right to reject any or all proposals for any reason and to waive any informality it deems in its best interest.

If the firm elects to mail in its response, the firm must allow sufficient time to ensure the City's proper receipt of the package by the time specified in Section 1.3 RFQ Timeline. Regardless of the delivery method, it is the responsibility of the firm to ensure that its response arrives at the designated location specified in Section 1.6 by the due date and time specified in Section 1.3 RFQ Timeline. **Proposals received after the RFQ deadline above will not be considered for any reason whatsoever.**

1.7 DBE Participation Form

The City of Raleigh prohibits discrimination in any manner against any person based on actual or perceived age, race, color, creed, national origin, sex, mental or physical disability, sexual orientation, gender identity or expression, familial or marital status, religion, economic status, or veteran status. The City maintains an affirmative policy of fostering, promoting, and conducting business with women and minority-owned business enterprises.

Complete and submit the DBE Participation Form (Appendix IV) with your qualification package. The City of Raleigh's Transit Division has a goal of 13% DBE participation.

1.8 Rights to Submitted Material

All qualification packages and supporting materials, as well as correspondences relating to this RFQ, shall become the property of the City. The content of all submittals will be held confidential until the selection of the firm is made. Qualifications will be reviewed by the Evaluation Team, as well as other City staff and members of the general public who submit public record requests. **Any proprietary data must be clearly marked.** In submitting qualifications, each submitting firm/company agrees that the City may reveal any trade secret materials contained in such submittal to all City staff and City officials involved in the selection process and to any outside consultant or other third party who serves on the Evaluation Team or who is hired by the City to assist in the selection process. Qualification submittals marked entirely as "confidential", "proprietary", or "trade secret" will be considered non-responsive and will be removed from the evaluation process.

1.9 Communications

All communications of any nature regarding this RFQ with any City staff, elected City officials, or evaluation committee members are strictly forbidden from the time the solicitation is publicly posted until award. Questions must be submitted in writing to the individual designated in Section 1.1 Purpose, before the deadline provided in Section 1.3 RFQ Timeline. Violation of this provision may result in the firm's proposal being removed from consideration.

1.10 Lobbying

By responding to this solicitation, the firm certifies that it has not and will not pay any person or firm to influence or attempt to influence an officer or employee of the City or the State of North Carolina, or any elected official in connection with obtaining a contract as a result of this RFQ.

1.11 Conflicts of Interest

The City of Raleigh contracts are controlled by three conflict of interest provisions.

First, federal procurement standards provide in 2 CFR 200.318 (c)(1),

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

Similarly, the North Carolina General Statutes provides a *criminal* statute for conflicts of interest in public contracting, N.C.G.S. § 14-234(a) states:

(1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law. (2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract. (3) No public officer or employee may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.

The City of Raleigh Charter Section 3.9 regulates private transactions between the City and its officials and employees. The Charter states:

No member of the City Council, official, or employee of the City of Raleigh shall be financially interested, or have any personal beneficial interest, either directly or indirectly, as agent, representative, or otherwise, in the purchase of, or contract for, or in furnishing any materials, equipment or supplies to the City of Raleigh, nor shall any official or employee of the City of Raleigh accept or receive, or agree to accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract may be awarded or from whom any materials, equipment or supplies may be purchased by the City of Raleigh, by rebate, gift, or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future reward or compensation, for recommending or procuring the uses of any such materials, equipment or supplies by the City of Raleigh; no member of the City Council, official or employee of the City of Raleigh shall for his own personal benefit operate, directly or indirectly, any concession in any building or on any lands of the City of Raleigh, nor shall any official or employee of the City of Raleigh bid for or be awarded any contract granting concessionary rights of any nature or kind from the City of Raleigh; it shall

be unlawful for any member of the City Council, official or employee of the City of Raleigh to bid for or to purchase or to contract to purchase from the City of Raleigh any real estate, equipment, materials, or supplies of any nature or kind whatsoever, either directly or indirectly, at either public or private sale, either singly, or through or jointly with any other person.

1.12 Submitter Expenses

The City of Raleigh will not be responsible for any expenses incurred by any firm in the development of a response to this Request for Qualifications or any other activities associated with this procurement including but not limited to any onsite (or otherwise) interviews and/or presentations, and/or supplemental information provided, submitted, or given to the City of Raleigh and/or its representatives. Further, the City of Raleigh shall reserve the right to cancel the work described herein before issuance and acceptance of any contractual agreement/purchase order by the recommended firm even if the awarding authority for each entity has formally accepted a recommendation.

1.13 Submitter Acceptance

Submission of any proposal indicates a Submitter's acceptance of the conditions contained in this RFQ. The City of Raleigh has the sole discretion and reserves the right to cancel this RFQ, reject any and all proposals, to waive any and all informalities and/or irregularities if it is deemed to be in the City of Raleigh's best interests to do so. The City of Raleigh reserves the right to accept or reject any or all of the items in the proposal and to award the contract in whole or in part and/or negotiate any or all items with individual firms if it is deemed in the City of Raleigh's best interest. Moreover, the City of Raleigh reserves the right to make no selection if proposals are deemed not in the best interest of the City of Raleigh.

It is understood that the Submitter may engage other professional firms in support of this project. These sub-consultants must be duly licensed to work in the state of North Carolina as may be required for their particular service. Sub-consultants presented as members of the team of professionals within the response to the RFQ may not be substituted without written approval from the City.

1.14 Federal Funding Requirements

The services and materials to be provided under this contract will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this contract. The most recent of such Federal requirements, including any amendments made after the execution of this contract shall govern this contract, unless the Federal Government determines otherwise. The Federal provisions and requirements identified in Appendix VI (Federal Provisions and Requirements) may be applicable to this contract. The awarded contractor is responsible for complying with all applicable provisions and requirements.

2 QUALIFICATIONS PACKAGE

2.1 Response to Request for Qualifications Required Document Format

Submittal responses must follow the format outlined below. The City may reject as non-responsive at its sole discretion any submittal that does not provide complete and/or adequate responses or departs any substantial way from the required format.

Responses should be divided using tabs to separate each section and each project submission within the related section, listed sequentially as follows:

Tab 1: Cover Letter

Provide an introduction letter summarizing the unique qualifications of your firm to meet the needs of the project. This letter should be presented on the firm's official letterhead, including a signature by an authorized representative who has the authority to enter into a contract with the City on behalf of the firm. Include the name, address, telephone, and email address of the individual who serves as the point of contact for this solicitation. The cover letter **must include the full Firm name as registered with the NC authorizing agency**, mailing address(es), website address, telephone number(s), and licensure number(s). Include a numerical listing for each issued addendum and acknowledge receipt.

Tab 2: Corporate Background and Experience

Include background information on the firm and provide detailed information regarding the firm's experience with similar projects. Provide a chart (see format below) of similar projects performed in the past five to seven (5 to 7) years. Include the total amount invoiced for each listed project, the length of the project, and a list of your firm's personnel involved in the project. Provide at least one (1) Stakeholder Project Contact or Owner and one (1) General Contractor contact. The contact information should include the full name of the person, employer, telephone number, and email address.

Similar Project Chart:

Project Name	Amount Invoiced	Project Duration	Personnel Assigned	Owner or Stakeholder	Contractor
				<i>(name, employer, telephone, and e-mail)</i>	<i>(name, employer, telephone, and e-mail)</i>

Provide detailed summaries of experience for at least Three (3) of the projects listed in the chart. Summaries should include the following, as applicable:

1. Description of the project including scope.
2. Description of services rendered by the Consultant or team firm.
3. Degree of involvement (prime Consultant or Sub-consultant).
4. Key leaders and associate staff members involved, along with their assigned responsibilities. Associate firms involved and their assigned responsibilities.
5. Project design and construction schedule (initial schedule and actual/final schedule), including an explanation of delays, if any.

6. Description of role in design, and commissioning specification development and roles during construction. Describe the role in functional system testing and documentation. Describe the role in owner training and documentation.
7. Designate which of the following activities were performed on each project and who performed the activity:
 - Assisted in the development of owner project requirements.
 - Reviewed designs and provided comments and recommendations to the owner during the design phase.
 - Managed the LEED design and construction documentation.
 - Authored the commissioning plan.
 - Authored commissioning specifications for the design/construction team.
 - Inspected and maintained an issues log for construction.
 - Authored functional test procedures.
 - Witnessed and documented start-up and functional tests.
 - Performed functional testing (hands-on).
 - Witnessed and tested a sequence of controls for equipment and systems for proper operation.
 - Managed and performed building envelope testing.
 - Managed building automation system integration.
 - Managed testing and integration of communications, security, network, and technology systems.
 - Developed or approved staff or occupant training.
 - Reviewed completed O&M manuals.

Include a fully executed copy of Appendix II in this tab.

Submitting firms must possess all licenses required by North Carolina law in accordance with NCGS Chapter 87. Provide a copy of NC professional licensures, for firm personnel that are being projected to be assigned. Provide a copy of the NC corporate licensure for professional services and NC corporate licensure to practice in the state.

Include a letter from an insurance company or its agency licensed to do business in North Carolina, verifying the firm's current coverage and ability to attain insurance coverage required by the City.

The evaluation team reserves the right to contact any or all listed references, and to contact other public entities regarding past performance on similar projects.

See Appendix III instructions and provide a minimum of three (3) reference questionnaires in accordance with the requirements and the submission deadline. References may overlap with those provided in the Similar Project chart.

Tab 3: Financial Information (PROVIDE AS A SEPARATE SUBMITTAL, SEE 1.6)

Review and provide one of the following three (3) financial statement options:

1. 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 RFQ, the Submitter 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 RFQ).
OR
2. 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 RFQ, the Submitter 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 Submitter's stated financing), 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 Submitter's financial stability
OR
3. Include a certified, signed statement from a licensed CPA regularly engaged in the review of the firm's financial information verifying the financial viability of the firm.

All financial information, statements, and/or documents provided in response to this solicitation shall be kept confidential provided that the financial disclosure is marked as follows: **"CONFIDENTIAL – DO NOT DISCLOSE EXCEPT FOR THE EXPRESS PURPOSE OF PROPOSAL EVALUATION."**

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

Consolidated financial statements of the Submitter's parent or related corporation/business entity will not be considered, unless: (1) the Submitter'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 State with a document wherein the parent or related corporation/business entity will be financially responsible for the Submitter'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) Submitter provides its own internally prepared financial statements and such other evidence of its own financial stability identified above.

The firm's failure to provide any of the above-referenced financial statements may result in the proposal being removed from consideration. Submitters are also encouraged to explain any negative financial information and to provide documentation supporting those explanations and demonstrating of the firm.

Tab 4: Project Understanding, Approach, and Tasks

Provide a comprehensive narrative, outline, and/or graph demonstrating the firm's understanding and approach to accomplishing the tasks outlined in the Scope of Work section of this RFQ. Identify and provide a description of work tasks and/or deliverables and the time duration required for completing each task identified. Chart the relational and overlapping aspects of work tasks. Include a comprehensive narrative statement that illustrates the understanding of the requirements of the projects and project schedule constraints. This statement shall include a detailed description of the understanding of the tasks to be performed for the design segment and an understanding of the scope of work.

The capability to perform services in a timely manner and to provide input for a project schedule to manage all commissioning phases of the project shall be noted. Understanding of the sequence and durations of required design and construction activities and the ability to manage specialty and other sub-consultants for commissioning services shall be noted. The Submitter shall note the capability to provide commissioning input for plan and specification development and permit requirements. Experience with meeting LEED Silver, utility considerations, and energy conservation goals shall be noted. The Submitter shall describe systems and information coordination used during the production of construction documents and the Project Manual to provide quality documents. Experience with performing reviews of equipment for compliance with submittal requirements and with performing functional testing of a wide variety of equipment and systems during construction shall be noted. The Submitter shall briefly address its management approach and philosophy; address its in-house quality control procedures to manage the commissioning process for itself and sub-consultants; address its procedures for cost control; and address methods and coordination of in-house disciplines and sub-consultants. Include a narrative statement that sets out the management plan the Submitter intends to follow to accomplish the work and meet the City's project goals in a timely and economical manner.

Provide a descriptive summary as to your firm's approach to the following items, including experience with various software systems, but not limited to the information noted below:

- Describe your firm's approach to handling Requests for Information (RFIs) during construction.
- Describe your firm's approach for submittal management to review and comment on submittals and shop drawings to ensure accuracy and timeliness.
- Describe how your firm implements plan and specification changes, and special instructions that may occur during the construction.

- Describe how your firm performs and documents project inspections and processes for management of deficiency items noted during inspections.
- Describe how the project team proposes to use technology and different systems to help manage, test, inspect, and control the project.
- Procedures for managing necessary changes that may be required during construction to maintain budget constraints for the project.

Tab 5: Personnel; Experience and Certifications/Qualifications

This section must include the proposed staffing, deployment, and consultants and their personnel to be assigned to this project. The Submitter shall provide information on the qualifications and experience of all executives, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities assigned to each person. For sub-consultants, the primary staff members participating in the project should be identified. A project-specific firm chart that clearly illustrates the roles, responsibilities, and reporting relationships of each team member should be included.

Tab 6: Any project where there were legal and/or technical problems encountered and the final resolution(s).

Please include a brief narrative of projects in which your firm and sub-consultants have been involved in the last five (5) years that experienced legal or technical problems. The narrative should briefly describe the problem, describe the final solutions or outcomes, and describe how your firm was involved in the outcomes.

Litigation/Claims: Please include responses to the below items. If yes to any of the questions below, list the project(s), dollar value, and contact information for the owner. Provide a full explanation with relevant documentation for projects for which work has been performed during the last five years.

- Has your company ever failed to complete work contracted to it? ___Yes ___No
- Has your company filed any claims, or had any claims filed against it, within the last five years? ___Yes ___No
- Has your company been involved in any suits, mediation, or arbitration with Local Governments within the last five years? ___Yes ___No
- Has your company been involved in any suits or arbitration with other agencies, individuals, or organizations within the last five years? ___Yes ___No

2.2 Hourly Rates

This solicitation is being issued in accordance with NCGS 143-64.31, otherwise known as the Mini-Brooks Act, and therefore price cannot and will not be a determining factor in the selection of the successful contractor. The Hourly Rate Schedule (see Appendix I) should be provided for all proposed project personnel including any sub-consultants. Submit the hourly rate sheet as confidential with the financial statement package and in accordance with Section 1.6.

2.3 Qualifications Package Documents

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

3 PROPOSAL EVALUATION

3.1 Evaluation Criteria

This is not a bid. There will not be a public opening. Proposals will be evaluated for responsiveness and the criteria to follow.

Criteria	(a) Weight	(b) Score (0-3)	(a) x (b) Weighted Score
Corporate Background and Experience	10		
References	15		
Firm Financial Stability	5		
Project Understanding; Approach and Tasks	25		
Personnel Experience and Qualifications	20		
Personnel Roles and Responsibilities	20		
Legal Issues and/or Technical Problems	5		
Final Score			

Score Points

- | | |
|--|-------------------------|
| 0 - Missing or Does Not Meet Expectation | 2 - Meets Expectation |
| 1 - Partially Meets Expectation | 3 - Exceeds Expectation |

3.2 Final Selection

Qualifications will be reviewed after opening and will be ranked. The highest-ranked Submitters will be invited to interview. Following interviews and ranking, contract negotiations will begin with the most qualified firm. If negotiations are unsuccessful, the City will then pursue negotiations with the next most qualified firm. The City shall not be bound or in any way obligated until both parties have executed a contract. The City also reserves the right to delay the award of a contract or to not award a contract.

The general conditions and specifications of the RFQ, including the firm's fee proposal, and/or written correspondence applicable to the RFQ, may become part of the contract documents. Failure of the awarded firm to perform as represented may result in contract cancellation.

3.3 Notice to Submitting Firms Regarding RFQ Terms and Conditions

It shall be the submitting firm's responsibility to read the Instructions, the City's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFQ, and to comply with all requirements and specifications provided herein. Submitters are responsible for obtaining and complying with all addenda and other changes that may be issued in connection with this RFQ.

3.4 Contract Term

The Contract shall be for the duration of the project including post construction warranty. At the end of the Contract's initial term, the City shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions. The City will give the contracted firm written notice of its intent to exercise each option no later than sixty (60) days before the end of the Contract's then-current term. In addition, the City reserves the right to extend a contract term for a period of up to 180 days in 90-day-or-less increments.

4 SCOPE OF SERVICES

The City invites architects and engineers licensed in the State of North Carolina to express interest and demonstrate qualifications in providing professional commissioning services. Proposed Submitters must prove that they possess the requisite licensure, experience, skills, and technical and administrative capability and capacity in directing and managing a multidisciplinary team approach to project delivery. The owner is committed to commissioning both facilities to ensure that all systems are well-designed, complete, and functioning properly upon occupancy and that City staff have comprehensive system documentation and training.

The objective of commissioning is to provide documented confirmation that a facility fulfills the functional and performance requirements of the building owner, occupants, and operators. The City's current sustainability standard is for new buildings 10,000 sf or greater to be designed and constructed to meet LEED Silver standards. To reach this goal, the commissioning process must establish and document the City's project requirements; establish criteria for systems function, performance, and maintainability for design intent and the City's project requirements; and to also verify and document compliance with these criteria throughout design, construction, start-up, and the initial period of operation. In addition, the selected Commissioning Firm will help to ensure that a complete set of operation and maintenance (O&M) manuals, as well as training on system operation, is provided to the building operators to ensure the building continues to operate as intended.

The Commissioning Firm or Commissioning Authority (CA) will be involved throughout the project, starting with the design phases, through the warranty phase. The CA is to help develop detailed City project requirements, and commissioning specifications, review and comment on the proposed system designs, and provide recommendations to ensure they meet the project objectives. During the construction phase, the CA develops and coordinates the execution of a commissioning and testing plan, which includes observing and documenting all systems'

performance to ensure that the systems are functioning in accordance with the project requirements and the contract documents.

Commissioning will involve a wide variety of mechanical, electrical, and plumbing (MEP) equipment and systems, building envelope, communications, fire alarm systems, and other systems. The CA will review technology systems proposed to support the relocation of various departments to the new facility. This will include the infrastructure for video, data, communications, network, and voice technologies required by the City. The major components to be considered include a new internal network, including any supporting equipment, cabling, and outlets that might be required, and external network connections that may be required to serve or support the facilities. Technology commissioning will include Wi-Fi and Cellular Heat mapping and include review, testing, and monitoring of testing.

The project involves Federal funding. The selected team should have experience with FTA - funded projects, including provisions of the Davis Bacon Act, and Buy America compliance.

4.1. Facility Description:

The new GoWake/GoRaleigh Access Transit Facility will replace the existing facility located at 1430 S. Blount Street, which has reached lifecycle capability it has. The project targets the current operational functions and future expansion of GoWake/GoRaleigh paratransit fleet.

Programs identified for the project include:

- Administration/Operation Area/Building, totaling approximately 18,000 sf.
- Maintenance/Service Area/Building, totaling approximately 34,500 sf.
- GoRaleigh storage warehouse w/loading dock, totaling approximately 10,000 sf.
- Exterior Area, totaling approximately 3,500 sf
- Parking Area, totaling approximately 223,000 sf

APPENDIX I

HOURLY RATE SCHEDULE

The awarded firm shall perform the services to be performed as set forth in this RFQ and more particularly described in Section 4 Scope of Services utilizing the hourly rate schedule below.

The Hourly Rate Schedule for all proposed project personnel should be submitted as confidential with the financial statement package and in accordance with Section 1.6.

Position Title	Hourly Rate

Firm Name: _____

Authorized Signature: _____ Date _____

Signed by: _____
 [Type or Print Name]

Title of Signer: _____

APPENDIX II SUBMITTER QUESTIONNAIRE

The following questions must be answered, and the data given must be clear and comprehensive. If necessary, questions may be answered on separate sheets. The Submitter may submit any additional information desired.

Company Name:		d/b/a (if applicable)	
Street / PO Box:			
City:		State:	Zip:
Phone:		Fax:	E-Mail:
Website (if applicable):			
<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other			
Number of years in business under the company's present name:			
Fed Tax ID #:		DUNS #	
Are you registered with the North Carolina Secretary of State to conduct business (if required)? (Check One) YES: <input type="checkbox"/> NO: <input type="checkbox"/> Not Applicable: <input type="checkbox"/>			
Are you properly licensed/certified by the Federal and/or State of North Carolina to perform the specified work? YES: <input type="checkbox"/> NO: <input type="checkbox"/> Not Applicable: <input type="checkbox"/> ATTACH COPY OF ALL APPLICABLE LICENSING/CERTIFICATION DOCUMENTS			
Are/will you be properly insured to perform the work? YES: <input type="checkbox"/> NO: <input type="checkbox"/>			
Contact for this Contract:		Title:	
Phone:		Fax:	E-Mail:
Have you ever defaulted or failed on a contract? (If yes, attach details) YES: <input type="checkbox"/> NO: <input type="checkbox"/>			
List at least three (3) references for which you have provided these services (same scope/size) in the past three years - preferably government agencies. <u>Do not include the City of Raleigh as a reference to meet the requirement of listing at least (3) references.</u> SUBMITTERS ARE RESPONSIBLE FOR SENDING REFERENCE QUESTIONNAIRES (APPENDIX III) TO THEIR REFERENCES.			
1.	Company:		
	Contact Person:	Title:	
	Phone:	Fax:	E-Mail:
Describe Scope of Work:			
2.	Company:		
	Contact Person:	Title:	
	Phone:	Fax:	E-Mail:
Describe Scope of Work:			
3.	Company:		
	Contact Person:	Title:	
	Phone:	Fax:	E-Mail:
Describe Scope of Work:			
4.	Company:		
	Contact Person:	Title:	
	Phone:	Fax:	E-Mail:
Describe Scope of Work:			
5.	Company:		
	Contact Person:	Title:	
	Phone:	Fax:	E-Mail:
Describe Scope of Work:			
The undersigned swears to the truth and accuracy of all statements and answers contained herein:			
Authorized Signature:		Date:	

APPENDIX III

REFERENCE QUESTIONNAIRE (Instructions)

The City of Raleigh, as a part of the RFQ, requires proposing companies to submit a minimum of three (3) business references as required within this document. The purpose of the references is to document the experience of the Submitter relevant to the scope of services and assist in the evaluation process.

- The Submitter is required to send the reference form (the following two pages) to each business reference listed on the Submitters Questionnaire.
- The business reference, in turn, is requested to submit the Reference Form directly to the City of Raleigh Point of Contact identified on the Reference Questionnaire form for inclusion in the evaluation process.
- The form and information provided will become a part of the submitted proposal. The business reference may be contacted for validation of the response.
- It is the Submitter's responsibility to verify its references have been received by the City of Raleigh Point of Contact by the date indicated on the reference form.

APPENDIX III

REFERENCE QUESTIONNAIRE FORM

RFQ Title: _____

(Name of Business Requesting Reference)

This form is being submitted to your company for completion as a business reference for the company listed above.

This form is to be returned to the City of Raleigh, **Alondra Roata**, via email to **alondra.roata@raleighnc.gov** ***before the submittal deadline*** and **MUST NOT** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the City of Raleigh, Point of Contact above.

Company Providing Reference

Contact Name and Title/Position

Contact Telephone Number

Contact Email Address

Questions:

1. In what capacity have you worked with this company in the past? If the company was under a contract, please acknowledge and explain briefly whether or not the contract was successful.

Comments:

2. How would you rate this company's knowledge and expertise?

3= Excellent

2= Satisfactory

1= Unsatisfactory

0= Unacceptable

Comments:

3. How would you rate the company's flexibility relative to changes in the scope and timelines?

3= Excellent

2= Satisfactory

1= Unsatisfactory

0= Unacceptable

Comments:

4. What is your level of satisfaction with hard-copy materials, e.g., reports, logs, etc. produced by the company?
 3= Excellent 2= Satisfactory 1= Unsatisfactory 0= Unacceptable

Comments:

5. How would you rate the dynamics/interaction between the company and your staff?
 3= Excellent 2= Satisfactory 1= Unsatisfactory 0= Unacceptable

Comments:

6. Who were the company's principal representatives involved in providing your service and how would you rate them individually? Would you comment on the skills, knowledge, behaviors, or other factors on which you based the rating?
(3= Excellent; 2= Satisfactory; 1= Unsatisfactory; 0= Unacceptable)

Name: _____	Rating: _____
Name: _____	Rating: _____
Name: _____	Rating: _____
Name: _____	Rating: _____

Comments:

7. With which aspect(s) of this company's services are you most satisfied?

Comments:

8. With which aspect(s) of this company's services are you least satisfied?

Comments:

9. Would you recommend this company's services to your organization again?

Comments:

**APPENDIX IV
DBE PARTICIPATION FORM**

IDENTIFICATION OF DBE PARTICIPATION FOR PROFESSIONAL SERVICES

The Identification of DBE Participation Form captures information regarding DBE participation in the providing professional services as defined by NCGS §143-64.31. *et seq.* DBE participation is encouraged for all City of Raleigh contracting opportunities. Please refer to the City's DBE Policy for any contract specific requirements. *Copy this Form as needed.*

COMPANY NAME			
PROJECT NAME		CITY DEPARTMENT	
PROJECT NUMBER		RFQ SUBMITTAL DATE	

Section 1: PROFESSIONAL SERVICES PROVIDED – PRIMARY CONTRACTOR

CONTRACT IS FOR PROFESSIONAL SERVICES. Please complete the following:

COMPANY NAME			
PROFESSIONAL SERVICES PROVIDED	<input type="checkbox"/> Architectural <input type="checkbox"/> Engineering <input type="checkbox"/> Public-Private Partnership Construction	<input type="checkbox"/> Design- Build <input type="checkbox"/> Surveying <input type="checkbox"/> Construction Management at Risk	
<input type="checkbox"/> PRIMARY CONTRACTOR IS DBE	Classification: _____ <input type="checkbox"/> Certified with NCHUB <input type="checkbox"/> Certified with NCDOT-DBE	RESIDENT FIRM	<input type="checkbox"/> YES <input type="checkbox"/> NO

*DBE Classifications: American Indian (AI), Asian American (AA), Black/African American (B), Hispanic (H), Non-Minority Female (NMF), Socially/Economic Disadvantage (D)

Section 2: PROFESSIONAL SERVICE PROVIDER – DBE SUBCONTRACTORS

Complete the chart below for all DBE subcontractors that you intend to use for this Contract regardless of dollar amount.

COMPANY NAME			
PROFESSIONAL SERVICES PROVIDED	<input type="checkbox"/> Architectural <input type="checkbox"/> Engineering <input type="checkbox"/> Public-Private Partnership Construction	<input type="checkbox"/> Design- Build <input type="checkbox"/> Surveying <input type="checkbox"/> Construction Management at Risk	
DBE CLASSIFICATION		RESIDENT FIRM	<input type="checkbox"/> YES <input type="checkbox"/> NO

*DBE Classifications: American Indian (AI), Asian American (AA), Black/African American (B), Hispanic (H), Non-Minority Female (NMF), Socially/Economic Disadvantage (D)

COMPANY NAME			
PROFESSIONAL SERVICES PROVIDED	<input type="checkbox"/> Architectural <input type="checkbox"/> Engineering <input type="checkbox"/> Public-Private Partnership Construction	<input type="checkbox"/> Design- Build <input type="checkbox"/> Surveying <input type="checkbox"/> Construction Management at Risk	
DBE CLASSIFICATION		RESIDENT FIRM	<input type="checkbox"/> YES <input type="checkbox"/> NO

*DBE Classifications: American Indian (AI), Asian American (AA), Black/African American (B), Hispanic (H), Non-Minority Female (NMF), Socially/Economic Disadvantage (D)

COMPANY NAME			
PROFESSIONAL SERVICES PROVIDED	<input type="checkbox"/> Architectural <input type="checkbox"/> Engineering <input type="checkbox"/> Public-Private Partnership Construction	<input type="checkbox"/> Design- Build <input type="checkbox"/> Surveying <input type="checkbox"/> Construction Management at Risk	
DBE CLASSIFICATION		RESIDENT FIRM	<input type="checkbox"/> YES <input type="checkbox"/> NO

*DBE Classifications: American Indian (AI), Asian American (AA), Black/African American (B), Hispanic (H), Non-Minority Female (NMF), Socially/Economic Disadvantage (D)

4. Non-Discrimination

To the extent permitted by North Carolina law, the Parties for themselves, their agents, officials, directors, officers, members, representatives, employees, and contractors agree not to discriminate in any manner or in any form based on actual or perceived age, mental or physical disability, sex, religion, creed, race, color, sexual orientation, gender identity or expression, familial or marital status, economic status, veteran status or national origin in connection with this Contract or its performance.

The Parties agree to conform with the provisions and intent of Raleigh City Code §4-1004 in all matters related to this Contract. This provision is incorporated into the Contract for the benefit of the City of Raleigh and its residents and may be enforced by an action for specific performance, injunctive relief, or any other remedy available at law or equity. This section shall be binding on the successors and assigns of all parties with reference to the subject matter of the Contract.

5. Minority and Women Owned Business Enterprise

The City of Raleigh prohibits discrimination in any manner against any person based on actual or perceived age, race, color, creed, national origin, sex, mental or physical disability, sexual orientation, gender identity or expression, familial or marital status, religion, economic status, or veteran status. The City maintains an affirmative policy of fostering, promoting, and conducting business with women and minority owned business enterprise.

6. Assignment

Neither the City nor the Engineer will assign, sublet, or transfer their interest, duties, or obligations hereunder without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it create any rights or benefits to parties other than the City and the Engineer, except such other rights as may be specifically called for herein.

7. Applicable Law

All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and the venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

8. Insurance

Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following coverages and limits. The requirements contained herein, as well as the City's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

Commercial General Liability – Combined single limit of no less than \$1,000,000 for each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a City site.

Worker's Compensation & Employers Liability – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 with statutory limits and employees liability of no less than \$1,000,000 each accident.

Additional Insured – Contractor agrees to endorse the City as an Additional insured on the Commercial General Liability, Auto Liability and Umbrella Liability if being used to meet the standard of the General Liability and Automobile Liability. The Additional Insured shall read: "City of Raleigh is named additional insured as their interest may appear".

Certificate of Insurance – Contractor agrees to provide the City a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer.

If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance.

The Certificate Holder address should read:

City of Raleigh
Post Office Box 590
Raleigh, NC 27602-0590

Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

Professional Liability – Limits of no less than \$1,000,000 each claim. This coverage is only necessary for professional services such as engineering, architecture or when otherwise required by the City.

All insurance companies must be authorized to do business in North Carolina and be acceptable to the City of Raleigh's Risk Manager.

10. Indemnity

- A. To the fullest extent allowed by law, the Engineer shall indemnify and hold harmless the City, its officers, officials, employees, agents, or indemnities (collectively called "Indemnified Parties") from and against those Losses, liabilities, damages, and costs proximately caused by, arising out of, or resulting from the sole negligence of the Engineer, the Engineer's agents, or the Engineer's employees.
- B. In matters other than those covered by subsection A. above, and to the fullest extent allowed by law, the Engineer shall indemnify and hold harmless the Indemnified Parties from and against those Losses, liabilities, damages, and costs caused by, arising out of, resulting from, or in connection with the execution of the work provided for in this contract when the Fault of the Engineer or its Derivative Parties is a proximate cause of the Loss, liability, damage, or expense indemnified.
- C. Costs and expenses shall include attorneys' fees, litigation or arbitration expenses, or court costs actually incurred by the Indemnified Parties to defend against third-party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of any of the Indemnified Parties by law or by contract, only if the Fault of the Engineer or its Derivative Parties is a proximate cause of the attorney's fees, litigation or arbitration expenses, or court costs to be indemnified.
- D. Only to the extent provided pursuant to a policy of insurance, the Engineer shall defend the Indemnified Parties against claims alleged in any court, tribunal, or alternative dispute resolution procedure if the Fault of the Engineer or its Derivative Parties is a proximate cause of such claims.
- E. The Engineer's duty to indemnify, defend, and hold harmless described hereinabove shall survive the termination or expiration of this Contract.
- F. Definitions:
 - i. For the purposes of this section, the term "Fault" shall mean any breach of contract; negligent, reckless, or intentional act or omission constituting a tort under applicable statutes or common law; or violation of applicable statutes or regulations.
 - ii. For the purposes of this section, the term "Loss" or "Losses" shall include, but not be limited to, fines, penalties, and/or judgments issued or levied by any local, state, or federal governmental entity.
 - iii. For the purposes of this section, the term "Derivative Parties" shall mean any of the Engineer's subcontractors, agents, employees, or other persons or entities for which the Engineer may be liable or responsible as a result of any statutory, tort, or contractual duty.

11. Intellectual Property

Any information, data, instruments, documents, studies, reports or deliverables given to, exposed to, or prepared or assembled by the Engineer under this Contract shall be kept

as confidential proprietary information of the City and not divulged or made available to any individual or organization without the prior written approval of the City. Such information, data, instruments, documents, studies, reports or deliverables will be the sole property of the City and not the Engineer.

The Engineer shall maintain the right of reuse to any drawings or specifications provided or furnished by the Engineer. The City acknowledges that such drawings or specifications are not intended or represented to be suitable for reuse by the City or others on extensions of the project or on any other project.

All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in performance of this Contract shall be the property of the City.

Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Engineer's performance of this project shall vest in the City. Works of authorship and contributions to works of authorship created by the Engineer's performance of this project are hereby agreed to be 'works made for hire' within the meaning of 17 U.S.C. 201.

12. Force Majeure

Except as otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Contract, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the Contract must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Contract by this provision.

13. Communications

If communications to the public and/or City employees are required as part of the Contractor's scope of work under this Contract, then the Contractor shall work with the City in the development of a communications plan ("Communications Plan") that must first be approved by the City in writing before any such communications are delivered to the public and/or City employees.

For purposes of this Section, such written approval by the City shall be provided by electronic mail by the applicable City Communications Department employee who is responsible for reviewing and approving the Communications Plan, such electronic mail to be sent to the electronic mail address listed in Notice section of the contract, as part of the contact information for the Contractor representative identified in the contract Notice section.

Among other things, the Communications Plan must establish whether the City or the Contractor will be responsible for sending any such communications to the public and/or

City employees as required either by this Contract or the Communications Plan. The Communications Plan also shall include, but not be limited to, communications objectives, target audience, and deliverables (print, video, website, social, direct, or digital). The Contractor shall comply with the Communications Plan when communicating to the public and/or City employees pursuant to this Contract and the Communications Plan. All such communications shall comply with the City's brand and communications guidelines, as the same may be amended or modified from time to time.

The City's current brand and communications guidelines are incorporated into this Contract by reference and can be found on the City's website here: <https://raleighnc.gov/doing-business/city-brand-guidance-vendors>.

For purposes of this Section, "Communications" is defined as any public or City employee facing information presented in channels such as, but not limited to, a website, mobile applications, social media, printed materials, vehicles, billboards, and videos.

A. Communications Plan Approval:

Any materials, messaging or outreach from the Contractor related to marketing and communications of any service or effort under this Contract must first be reviewed and approved by the City's Communications Department. This is to ensure that the Communications Plan: (i) complies with the City's brand and communication guidelines; (ii) integrates with the City's other communications channels and digital strategy; (iii) meets accessibility guidelines; and (iv) conforms to communications best practices with respect to general user experience.

B. Accessibility Requirements:

For web content that the Contractor is to make accessible to the public and/or City employees as part of an approved Communications Plan that is included in the Contractor's scope of work under this Contract, all web materials including, but not limited to, tools, mobile applications, and websites, generated by, or on behalf of, the Contractor must meet at least the mid-range conformance level, AA compliance of the current Web Content Accessibility Guidelines, as the same may be amended from time to time.

Any such web content generated by, or on behalf of the Contractor, as part of a Communications Plan associated with this Contract shall meet all standards of good cognitive web accessibility, which include the following:

- i. Using proper headings and lists
- ii. Using unique links
- iii. Using alternative text and captions
- iv. Using more white space
- v. Dividing content into more manageable pieces
- vi. Making forms manageable by breaking them into multiple, sequential steps
- vii. Providing a logical reading order
- viii. Being consistent with fonts, colors and locations of page elements
- ix. Offering keyboard access

- x. Offering content in multiple formats
- xi. Understanding minimum contrast

C. Languages:

Digital sites/ tools that are for public use/consumption, including for use by City employees, under a Communications Plan associated with this Contract must have translation module (e.g., G-translate, Weglot) so that the service is available in all languages. At minimum, Spanish translation is required on all such digital sites/tools based on low English proficiency requirements:

- i. In most cases, entities that are recipients of federal financial assistance through U.S. Department of Health and Human Services (HHS) must provide language assistance services in order to comply with their legal obligation to take reasonable steps to ensure meaningful access to their programs by persons with Limited English Proficiency (LEP).

D. Content:

For any communications content that the Contractor is required to generate, or have generated, as part of its scope of work under this Contract, the Contractor shall send such content to City Communications Department staff in raw, high-resolution format for inclusion in communications materials to be made accessible to the public and/or City employees as set forth in the Communications Plan that arises from this Contract (i.e., websites, mobile applications, printed materials collateral, and social media). PDF attachments shall be used only as a last resort and only after written approval by the City, with such written approval to be provided by the City in electronic mail format as described elsewhere in this Section 13.

- i. Contractor shall only provide to the City communications materials for which the City has rights to use, with written documentation of such use rights being provided to the City as requested from time to time by the City in its sole discretion.
- ii. All working files agreed upon for the specific Communications Plan shall be provided to the City Communications Department, i.e., text, graphics, charts and data, infographics, and original native files such as Illustrator, Excel, ArcGIS, etc. Following are the file format specifications:

13.4.2.1. Images: At least 300dpi for printing at actual size; 96dpi and at least 1920x1080px for digital/Web.

13.4.2.2. Video: Any video should be no less than Standard HD (1920x1080) but preferable 4k.

13.4.2.3. Text: Word document using accessibility best practices (heading structure, table of contents, and tables).

14. Advertising

The Engineer shall not use the existence of this Contract, or the name of the City of Raleigh, as part of any advertising without the prior written approval of the City.

15. Acknowledgement of City Brand and Tree Logo Ownership and Restrictions
The City of Raleigh has developed proprietary branding (the “City Brand”) centered around the Raleigh tree mark logo (the “Tree Logo”). The City’s exclusive rights and ownership in and to the Tree Logo are protected under trademark and copyright, including U.S. Copyright Reg. No. VAu1-322-896, N.C. State Trademark Registration Reg. No. T-23070 and Federal Trademark Registration Reg. No. 5,629,347, as well as under other federal and state laws.

Contractor acknowledges and understands that the City is not conferring any license to Contractor under this Agreement to use or depict the Tree Logo or other aspects of the City Brand.

Contractor shall not make any use or depiction of the Tree Logo or other aspects of the City Brand without the prior express written approval of the City. In this regard, should any materials being produced by Contractor for the City under this Agreement contemplate use or depiction of the Tree Logo, including, but not limited to, printed materials, digital media, signage and/or display materials, Contractor shall proceed under the auspices and direction of the City’s Communications Department and shall comply with all guidelines and restrictions governing use or depiction of the Tree Logo.

16. Cancellation
The City may terminate this Contract at any time by providing thirty (30) days written notice to the Engineer. In addition, if Engineer shall fail to fulfill in timely and proper manner the obligations under this Contract for any reason, including the voluntary or involuntary declaration of bankruptcy, the City shall have the right to terminate this Contract by giving written notice to the Engineer and termination will be effective upon receipt. Engineer shall cease performance immediately upon receipt of such notice.

In the event of early termination, Engineer shall be entitled to receive just and equitable compensation for costs incurred prior to receipt of notice of termination and for the satisfactory work completed as of the date of termination and delivered to the City. Notwithstanding the foregoing, in no event will the total amount due to Engineer under this section exceed the total amount due Engineer under this Contract. The Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold any payment due to the Engineer for the purpose of setoff until such time as the City can determine the exact amount of damages due the City because of the breach.

Payment of compensation specified in this Contract, its continuation or any renewal thereof, is dependent upon and subject to the allocation or appropriation of funds to the City for the purpose set forth in this Contract.

17. Laws/Safety Standards
The Engineer shall comply with all laws, ordinances, codes, rules, regulations, safety standards and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority.

Engineer must comply with *North Carolina Occupational Safety and Health Standards for General Industry 13 NCAC 07F (29CFR 1910)*. In addition, Engineer shall comply

with all applicable occupational health and safety and environmental rules and regulations.

Engineer shall effectively manage their safety and health responsibilities including:

a. Accident Prevention

Prevent injuries and illnesses to their employees and others on or near their job site. Contractor managers and supervisors shall ensure personnel safety by strict adherence to established safety rules and procedures.

b. Environmental Protection

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

c. Employee Education and Training

Provide education and training to all contractor's employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

18. Applicability of North Carolina Public Records Law

Notwithstanding any other provisions of this Contract, this Contract and all materials submitted to the City by the Engineer are subject to the public records laws of the State of North Carolina and it is the responsibility of the Engineer to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the City. Engineer understands and agrees that the City may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Contract. To the extent that any other provisions of this Contract conflict with this paragraph, the provisions of this section shall control.

19. Miscellaneous

The Engineer shall be responsible for the proper custody and care of any property furnished or purchased by the City for use in connection with the performance of this Contract and will reimburse the City for the replacement value of its loss or damage.

The Engineer shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Nothing herein is intended or will be construed to establish any agency, partnership, or joint venture. Engineer represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such employees shall not be employees of or have any individual contractual relationship with the City.

This Contract may be amended only by written agreement of the parties executed by their authorized representatives.

20. Right of Audit and Examination of Records

a. The City may conduct an audit of any services performed and fees paid subject to this Contract. The City, or its designee, may perform such an audit throughout the

contract period and for three (3) years after termination thereof or longer if otherwise required by law.

- b. The Contractor and its agents shall maintain all books, documents, papers, accounting records, contract records and such other evidence as may be appropriate to substantiate costs incurred under this Contract. The City, or its designee, shall have the right to, including but not limited to: review and copy records; interview current and former employees; conduct such other investigation to verify compliance with contract terms; and conduct such other investigation to substantiate costs incurred by this Contract.
- c. "Records" shall be defined as data of every kind and character, including but not limited to books, documents, papers, accounting records, contract documents, information, and materials that, in the City's sole discretion, relate to matters, rights, duties or obligations of this Contract.
- d. Records and employees shall be available during normal business hours upon advanced written notice. Electronic mail shall constitute written notice for purposes of this section.
- e. Contractor shall provide the City or its designee reasonable access to facilities and adequate and appropriate workspace for the conduct of audits.
- f. The rights established under this section shall survive the termination of the Contract, and shall not be deleted, circumvented, limited, confined, or restricted by contract or any other section, clause, addendum, attachment, or the subsequent amendment of this Contract.
- g. The Contractor shall reimburse the City for any overcharges identified by the audit within ninety (90) days of written notice of the City's findings.
- h. Contractor shall, upon request, provide any records associated with this engagement to the North Carolina State Auditor that are necessary to comply with the provisions of G.S. § 147-64.7.

21. E – Verify

Contractor shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In addition, to the best of Contractor's knowledge, any subcontractor employed by Contractor as a part of this contract shall be in compliance with the requirements of E-Verify and N.C.G.S. §64-25 et seq.

22. Iran Divestment Act Certification

Contractor certifies that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.55, *et seq.* In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147-86.59,

Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

23. Companies Boycotting Israel Divestment Act Certification
Contractor certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. 147-86.81.

End of Contract Standard Terms and Conditions

APPENDIX VI

FEDERAL AND STATE REQUIREMENTS AND SPECIAL CONDITIONS

for

PROFESSIONAL and ARCHITECTURAL & ENGINEERING SERVICES

1. General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement FTA MA (21), dated October 1, 2014, FTA Circular 4220.1F, dated November 1, 2008; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through October 2005; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R part 1201, dated December 19, 2014, will supersede and apply in lieu of U.S. DOT's common grant rules, 49 C.F.R. parts 18 and 19, State and Local Governments and Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and any subsequent amendments or revisions thereto.

THE FOLLOWING MAY BE USED SYNONYMOUSLY:

"BIDDER" AND "CONTRACTOR"

"PURCHASER", "PROCURING AGENCY" AND "OWNER"

2. Federal Changes

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

FTA's new authorizing legislation, MAP-21 made significant changes to FTA's public transportation programs. FTA has determined that:

(1) MAP-21 requirements apply to:

- a. New grants and cooperative agreements for which FTA awarded FY 2013 or a later fiscal year funds appropriated or made available to carry out MAP-21 programs,
- b. Amendments to existing grants and cooperative agreements for which FTA awarded funds made available or appropriated to carry out MAP-21 programs, and
- c. All "recoveries" funds FTA awards, irrespective of the fiscal year for which those funds were appropriated,

(2) Fiscal Year 2012 and previous fiscal year funding requirements apply as follows:

- a. In some instances, as determined by FTA, previous program requirements apply or will apply to grants and cooperative agreements for which FTA awarded Fiscal Year 2012 or a previous fiscal year funds, but
- b. In other instances, as determined by FTA, MAP-21 program requirements (including MAP-21 "cross-cutting requirements" identified in section 49 of this Master Agreement) apply or will apply

to grants and cooperative agreements for which FTA awarded Fiscal Year 2012 or a previous fiscal year funds.

3. Notification of Federal Participation

To the extent required by Federal law, the State of North Carolina agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of FTA assistance for the Program or the Project that it will identify the FTA grant source by listing the Catalog of Federal Domestic Assistance Number of the program. The following FTA grant programs will be eligible to participate in this bid, 20.505, 20.507, 20.500, 20.513, 20.509, 20.516, 20.519, 20.521, 20.525, and 20.526. Federal funding assistance up to eighty (80%) percent may be provided.

4. Definitions

Third Party Agreement, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following agreements, such as:

- (1) Third party contracts,
- (2) Leases,
- (3) Third party subcontracts; and
- (4) Other similar arrangements or agreements.

Third Party Participant, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following participants, such as:

- (1) Third party contractors,
- (2) Lessees,
- (3) Third party subcontractors, and
- (4) Other participants in the Project

5. Conflict of Interest

No employee, officer, board member, or agent of the Owner shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration (FTA) funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

6 Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). Contractors who apply or bid for an award of \$250,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence

congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The requisite "Lobbying Certification" is included as ATTACHMENT A (attach Standard Form-LLL if necessary) and must be executed for contracts of \$250,000 or more and prior to the award of the contract.

7. Civil Rights

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(a) The third party contractor and all lower tiers shall comply with all provisions of FTA Circular 4702.1 "Title VI Requirements and Guidelines for Federal Transit Administration Recipients", issued October 1, 2012.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Religion, National Origin, Disability, Age, Sexual Origin, Gender Identity, or Status as a Parent - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act, 28 C.F.R. § 50.3, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," July 21, 2014, and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Contractor agrees to comply and assures the compliance of each subcontractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375,

"Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

(3) **Nondiscrimination on the Basis of Age** – The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

(4) **Nondiscrimination on the Basis of Sex** - The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

(5) **Access for Individuals with Disabilities** - The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations "Transportation Services for Individuals with Disabilities (ADA)" 49 C.F.R. Part 37;
- (2) U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
- (4) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;

- (6) U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;
- (9) U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
- (11) Federal regulations, "Miscellaneous Civil Rights Amendments (RRR)," pertaining to nondiscrimination on the basis of disability within 49 C.F.R. Parts 27, 37, and 38 were published in 79 Fed. Reg. 21402, April 16, 2014; and
- (12) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

(6) **Access to Services for Persons with Limited English Proficiency.** The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

(7) **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

(8) **Other Nondiscrimination Laws.** The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.

(9) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

(10) Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

8 Contracting with Disadvantaged Business Enterprises

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective October 1, 2004.

a. This contract is subject to the requirements of U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26 [U.S. DOT published final rule, "Disadvantaged Business Enterprise: Program Improvements," 49 C.F.R. Part 26, on January 28, 2011 (see 76 Fed. Reg. 5083)], and Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, as amended by Section 451 of the Hiring Incentives to Restore Employment (HIRE) Act, Pub. L. 111-147, March 18, 2010, 23 U.S.C. § 101 note.

The City of Raleigh Transit Division's overall goal for DBE participation is 13%.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the **Procuring Agency** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Procuring Agency. In addition, these may apply:

- **the contractor may not hold retainage from its subcontractors; or**
- **is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed; or**
- **is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Procuring Agency and contractor's receipt of the partial retainage payment related to the subcontractor's work.**

d. The contractor must promptly notify the **Procuring Agency** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the **Procuring Agency**.

9. Clean Air Act

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 306 of the Clean Air Act as amended, 42 U.S.C. § 7606, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. The Contractor agrees to report any violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the State and/or FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with Federal Assistance provided by FTA.

10. Clean Water

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377, The Contractor agrees to report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with Federal assistance provided by FTA.

11. Environmental Protection (requirements for environmental studies)

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5323(c)(2)), as amended by MAP-21, ; U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; were published in the Federal Register, 78 Fed. Reg. 8963, February 7, 2013; and other applicable Federal environmental protection regulations that may be promulgated at a later date. The Contractor agrees to comply with the applicable provisions of 23 U.S.C. § 139 "Efficient environmental reviews for project decision making", pertaining to environmental procedures, and 23 U.S.C. § 326, pertaining to Purchaser's responsibility for categorical exclusions, in accordance with the provisions of joint FHWA/FTA final guidance, "Environmental Review Process (Public Law 109-59)," 71 Fed. Reg. 66576 *et seq.* November 15, 2006. Joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319 Accelerated Decisionmaking in Environmental Reviews," dated January 14, 2013, and any applicable Federal directives that may be issued at a later date, except to the extent that FTA determines otherwise in writing.

12. Environmental Justice (requirements for environmental studies)

The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note; as well as facilitating compliance with that Executive Order; and DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 *Fed. Reg.* 18377 *et seq.*, April 15, 1997, except to the extent that the Federal Government determines otherwise in writing; and the most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance.

13. Additional Environmental Requirements (requirements for environmental studies)

The Contractor agrees to comply with the following:

- Corridor Preservation. That development of right-of way acquired under 49 U.S.C. § 5323(q), as amended by MAP-21, will not occur in anticipation of its Project until all required environmental reviews for that Project have been completed;
- Use of Certain Public Lands. assures that it will comply specifically 49 U.S.C. § 303, which requires certain findings be made before an FTA-funded Project may be carried out that involves the use of any publicly owned land.

- Wild and Scenic Rivers. It will comply, with Federal protections for the national wild and scenic rivers system, 16 U.S.C. §§ 1271 – 1287,
- Coastal Zone Management. assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465,
- Wetlands. agrees to, and assures that it will, facilitate compliance with the protections for wetlands provided in Executive Order 119 No. 11990, as amended, “Protection of Wetlands,” 42 U.S.C. § 4321 note,
- Floodplains. agrees to, and assures that it will, facilitate compliance with the flood hazards protections in floodplains provided in Executive Order No. 11988, as amended, “Floodplain Management,” 42 U.S.C. § 4321 note,
- Endangered Species and Fishery Conservation agrees to comply, and assures that it will comply, with the protections for endangered species of The Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544,
- Hazardous Waste. assures that it will, facilitate compliance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 – 9675, which establishes requirements for the treatment of areas affected by hazardous waste
- Historic Preservation. agrees to, and assures that it will:
 - Comply with U.S. DOT laws, including 49 U.S.C. § 303, which requires certain findings be made before a Project involving the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places may be undertaken
 - Encourage compliance with the Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f,
 - Facilitate compliance with Executive Order No. 11593, “Protection and Enhancement of the Cultural Environment,” 16 U.S.C. § 470 note,
 - Comply with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. § 469a – 469c,
 - Comply with U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800, which requires the Recipient to:
 - Consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and
 - Notify FTA of affected properties, and
 - Comply with Federal requirements and follow Federal guidance to avoid or mitigate adverse effects on those historic properties, except as the Federal Government determines otherwise in writing,
- Indian Sacred Sites. agrees to assures that it will facilitate compliance with
 - The American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” 42 U.S.C.

14. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Sect. 6321 et seq.

15. **Fly America**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

16. **Debarment and Suspensions**

This contract is a covered transaction for purposes of 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2 CFR 180.940, 180.935 and 180.945.

The contractor is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the **Procuring Agency**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **Procuring Agency**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The Procuring Agency agrees and assures that its third party contractors and lessees will review the "System for Award Management" at <https://www.sam.gov/> before entering into any sub-agreement, lease or third party contract.

The Procuring Agency will be reviewing all third party contractors under the "System for Award Management" at <https://www.sam.gov/> before entering into any contracts.

If the Procuring Agency, recipient, or subrecipient suspends, debars, or takes similar action against a Third Party Participant or individual, the Agency, recipient, or subrecipient will provide immediate written notice to the:

- (a) NCDOT/Public Transportation Division,
- (b) FTA Regional Counsel for the Region in which the Agency is located or implements the Project,
- (c) FTA Project Manager if the Project is administered by FTA Headquarters Office, or
- (d) FTA Chief Counsel.

The requisite Debarment and Suspension Certification is included as ATTACHMENT B (attach additional statement if necessary) and must be executed for contracts of \$25,000 or more and prior to the award of the contract.

17. Termination or Cancellation of Contract

The Owner, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the project. If this contract is terminated, the Owner shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

The Owner may terminate this contract in whole or in part, for the Owner's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Owner shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. A 30-day notice of termination shall be required.

If the termination is for the convenience of the Owner shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Owner may complete the work by issuing another contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Owner.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

18. Breach of Contract

If the Contractor does not deliver the required services or the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Owner may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Owner that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Owner, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

The Owner in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the Contractor fails to remedy to Owner's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of

written notice from Owner setting forth the nature of said breach or default, The Owner shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Owner from also pursuing all available remedies against Contractor and its sureties for said breach or default.

If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of FTA is required.

If a legal matter as described above emerges, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or FTA Regional Counsel for the Region in which the Recipient is located and the NCDOT.

19. **Resolution of Disputes**

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Owner. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized representative of the Owner. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of the Owner shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the Owner, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Owner is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Owner, Architect or

Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

20. **Protest Procedures**

To ensure that protests are received and processed effectively the Purchaser shall provide written bid protest procedures upon request. In all instances information regarding the protest shall be disclosed to the N.C. Department of Transportation (NCDOT). All protest requests and decisions must be in writing. A protester must exhaust all administrative remedies with the Purchaser before pursuing remedies through the NCDOT. Reviews of protests by the NCDOT will be limited to the Purchaser's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to the NCDOT must be received by the Department within three (3) working

days of the date the protester knew or should have known of the violation. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation. Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

21. No Federal Government Obligations to Third Parties

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

22. False or Fraudulent Statements or Claims

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with this Project. Accordingly, upon execution of the underlying contract or agreement the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement involving a project authorized under 49 U.S.C. chapter 53 or any other Federal statute, the Federal Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 or other applicable Federal statute to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

23. Record Retention and Access to Records and Reports

The Contractor agrees to permit, and require its subcontractors to permit, the U.S. Secretary of Transportation, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project, as required by 49 U.S.C. § 5325(g).

Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S. D. 5302(a)1, which is

receiving federal financial assistance through the programs described at 49 U.S.C. 5303, 5307, 5309, 5310, 5311, 5316, or 5317.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The State of North Carolina, Office of the State Auditor, now requires that all records now be retained for five (5) years after that date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

24. Patents and Rights in Data - CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK - ONLY

A. Rights in Data - These following requirements apply to each contract involving experimental, developmental, or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) Effective December 19, 2014, the Super circular, 2 C.F.R. part 1201 did not retain the common rule provision with respect to program income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project which are developed under a research project.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in

subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (e), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the -Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition, of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents, of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) Therefore, when the Project is completed, the Contractor agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the Contractor agrees to provide other reports pertaining to the Project that FTA may request. The Contractor agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA.

(5) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - These following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America

or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

25. Privacy

To the extent that the Contractor, or its subcontractors, if any, or any to their respective employees administer any system of records on behalf of the Federal Government, Contractor agrees to comply with, and assure the compliance of its subcontractors, if any, with the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sect. 552, (the Privacy Act).

The Contractor shall obtain the express consent of the Department and the Federal Government before the Contractor, and any subcontractors, or any of their respective employees operate a system of records on behalf of the Federal Government. Failure to do so may result in termination of the Contract and civil and criminal penalties for violation of the Privacy Act.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

26. National Intelligent Transportation Systems Architecture and Standards

To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards requirements of 23 U.S.C. § 517(d), as amended by MAP-21, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing. (*applicable to ITS projects*)

27. Architectural, Engineering or Related Services

In accordance with 49 U.S.C. § 5325(b), the Contractor agrees to comply with the following requirements pertaining to the procurement of architectural engineering or related services that will be financed with Federal assistance authorized under 49 U.S.C. chapter 53 or required by Federal law to be administered in accordance with 49 U.S.C. chapter 53:

- (1) When procuring architectural engineering, or related services, the Contractor agrees that it and its subcontractors at any tier will:
 - (a) Negotiate for architectural engineering or related services in the same manner as a contract for architectural engineering, or related services is negotiated under chapter 11 of Title 40, United States Code, or

- (b) Comply with an equivalent State qualifications-based requirement for contracting for architectural engineering, or related services, provided the State has adopted by law such requirement before August 10, 2005.
- (2) Upon awarding a contract for architectural engineering or related services, the Contractor agrees that it and its subcontractors at any tier will:
- (a) Perform and audit the third party contract or the third party subcontract in compliance with the cost principles of the FAR as set forth in 48 C.F.R. Part 31.
 - (b) Accept the indirect cost rates established by a cognizant Federal or State government agency in accordance with the FAR for one-year applicable accounting periods, if those rates are not currently under dispute.
 - (c) Will use indirect cost rates accepted by a cognizant Federal or State government agency for contract or subcontract for purposes of contract estimation, negotiation, administration, reporting, and contract payment without limitation by administrative or de facto ceilings, and
 - (d) In compliance with 49 U.S.C. § 5325(b)(2)(D), agrees and assures that it and the members of any group of entities sharing cost or rate data described in section 17.r(2)(c) of this Master Agreement shall:
 - 1. Notify any affected firm before requesting or using that data,
 - 2. Maintain the confidentiality of that data, and assure that it is not accessible or provided to others, and
 - 3. Not disclose that data under any circumstances if doing so is prohibited by 49 U.S.C. § 5325(b) or other law.

28. Seismic Safety

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 *et seq.*, and the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 C.F.R. Part 41, specifically, 49 C.F.R. § 41.117. The contractor also agrees to certify to the extent required by the regulation to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and that the certification of compliance issued on the project and will facilitate and follow Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, except as the Federal Government determines otherwise in writing. (*applicable to A&E contracts*)

29. Supervision of Construction

Competent and adequate engineering supervision will be maintained at the construction site of the Project to ensure that the completed work conforms to the approved plans and specifications. (*applicable to A&E contracts*)

30. State and Local Disclaimer

The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.

31. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

32. Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Owner of this Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the Owner or it's agents who are involved in the delivery or processing of contractor goods to the Owner. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

33. Safe Operation of Motor Vehicles

a. Seat Belt Use.

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts, leases or similar documents in connection with this project.

b. Distracted Driving, Including Texting While Driving.

Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. Section 402 note, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, FTA encourages each third party contractor to promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in any third party subcontract leases or similar documents in connection with this project.

c. Safety. The Contractor is encouraged to:

- (a) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

Company-owned or rented vehicles; Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or any vehicle, on or off duty, and using an electronic device.

(e)

(f) (b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(g) c. Definitions

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

34. Metric System

To the extent required by U.S. DOT or FTA, the Contractor agrees to use the metric system of measurement in its Contract activities as may be required by 49 U.S.C. Sect. 205a *et seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. Sect. 205a; and other regulations, guidelines and policies issued by U.S. DOT or FTA. To the extent practicable and feasible, the Contractor agrees to accept products and services with dimensions expressed in the metric system of measurement.

35. Geographic Information and Related Spatial Data.

In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, and OMB Circular A-16, Supplemental Guidance "Geospatial Line of Business," November 10, 2010, the Contractor agrees to implement this Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, are consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

36. Exclusionary or Discriminatory Specifications or Requirements

The Contractor agrees that it will comply with the requirements of 49 U.S.C. Sect. 5325(h) by refraining from using any funds derived from FTA in performance of this Contract to support any sub-contracts using exclusionary or discriminatory specifications or requirements.

37. North Carolina State Ethics Requirement

Pursuant to Governor Perdue’s Executive Order # 24, this section should be included in the terms and conditions of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

- 1) “By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:
 - (1) have a contract with a governmental agency; or
 - (2) have performed under such a contract within the past year; or
 - (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.”

To be added near the signature portion of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

“N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.”

38. Sensitive Security Information

Each third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with “The Homeland Security Act”, as amended, specifically 49 U.S.C. Section 40119(b), The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 15, and U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 1520.

39. NC E-Verify Requirements

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contractor(s), by submitting a bid, proposal or any other response, or by providing any material,

equipment, supplies, services, etc., attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS64-26(a)) relating to the E-Verify requirements by executing and submitting the E-Verify Affidavit included in this Invitation for Bids as Attachment C.

_ATTACHMENT A

CERTIFICATION REGARDING LOBBYING

(To be submitted with all bids or offers exceeding \$250,000; must be executed prior to Award)

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding to any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transactions imposed by 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$250,000 for each such failure.

[Note: Pursuant to 31 U.S.C. 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 for each such expenditure or failure.]

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

Date

Signature of Contractor's Authorized Official

Name and Title of Contractors Authorized Official

Subscribed and sworn to before me this ___ day of _____, 20___, in the State of _____;
and the County of _____.

Notary Public _____
My Appointment Expires _____

ATTACHMENT B

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY and VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(To be submitted with all bids exceeding \$25,000.)

- (1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

ATTACHMENT C

STATE OF NORTH CAROLINA
COUNTY OF WAKE

AFFIDAVIT OF COMPLIANCE WITH N.C. E-VERIFY STATUTES

(To be submitted with all bids)

I, _____ (hereinafter the "Affiant"), duly authorized by and on behalf of _____ (hereinafter the "Employer") after being first duly sworn deposes and says as follows:

1. I am the _____ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3. Employer employs 25 or more employees, and is in compliance with the provisions of N.C. General Statute §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.

 Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. General Statute §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. General Statute §64-26.
5. Employer shall keep the State of North Carolina informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina Statutes.

This ____ day of _____, 20 ____.

Signature of Affiant

Printed Name and Title

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20 ____.

Notary Public _____

(SEAL)

My Appointment Expires _____

APPENDIX VII

Submittal Checklist

Firm name: _____

RFQ Title: _____

RFQ Number: _____

Paper Submittal: Two (2) signed hard copies of the Submitter's qualifications package including MWBE documentation, Appendices, and all other required documentation. Do not include Financial Statements and hourly rates within this submittal package. See the Confidential Submittal below for instructions.

Electronic Submittal: Two (2) electronic versions, viewable and printable, Portable Document File formatted (PDF) files on separate flash drive storage devices. Do not include Financial Statements and hourly rates within this electronic submittal. See the Confidential Submittal below for instructions.

Confidential Submittal: One (1) hard copy and **One (1)** electronic version, viewable and printable Portable Document File format (PDF) flash drive storage device containing financial statements listed in Section 2, Tab 2, and an hourly rates schedule (Appendix I) placed in a separate, sealed envelope, marked confidential.

Reference Questionnaire Electronic Submittal requirements- Refer to Appendix III

APPENDIX VIII

Scope of Standard Work to be performed by the Professional Commissioning Agent Consultant

1.0 Description of Project and Consultant Scope of Work

The Consultant, also referred to as Commissioning Agent or Commissioning Authority (CA), shall provide complete Building Commissioning Services, including but not limited to the following work for each phase of the project:

a. The Consultant will serve as the City's professional technical representative in those tasks of the Project to which this Contract applies and will give consultation and advice to the City during the performance of their services. The Consultant shall perform third-party commissioning and shall serve as the commissioning authority for the project. The Consultant shall be a registered professional engineer licensed in the State of North Carolina.

b. The Consultant shall work with the Owner and Designer and shall prepare and complete the Owners Project Requirements (OPR) document early in the design process and shall ensure these items are addressed to meet the Owner's needs during all phases of the design development and construction process. The OPR shall be updated during the course of design and construction to ensure it is complete and accurate.

c. Consultant shall develop a Commissioning Plan for the Project design and construction phases. The plan shall address organization, responsibilities, design reviews, specification development, procedures, checklists, reports, construction submittals and reviews, and other data for commissioning of the project. The plan shall also include procedures to incorporate LEED requirements and certification into project, including sustainable design and energy conservation initiatives.

d. The CA shall work with the Owner, design team and construction contractor to provide building commissioning services in accordance with LEED BD+C v4, Fundamental and Enhanced commissioning requirements, as well as the terms of this contract for commissioning services for this project.

e. The CA shall provide project commissioning specifications and reports in Microsoft Word format. The CA shall utilize a CSI Master Format-based specification system to develop the commissioning specifications and contract documents, subject to specific contract and specification provisions and revisions as requested by the City. Specifications shall conform to industry standards as established by the CSI Manual of Practice. The complete commissioning specifications, including title sheet, table of contents, and all specification sections must be assembled into a single electronic document in Word and PDF format. Specifications shall be capable of being printed directly from the electronic file. The commissioning specifications shall be coordinated with the Design Professional's specifications and reference their specification sections. Information to be included in the commissioning plan and commissioning information

to be included in the construction plan and bid documents shall be provided in electronic Microsoft Word, and PDF format and in print copy to both the City and the Design firm.

f. Systems to be Commissioned: It is anticipated that the following systems and assemblies if provided in the design, will be commissioned. The systems and assemblies to be commissioned will be further identified during the schematic and design development phases:

1. Central building automation system.
2. All equipment for the heating, ventilating, and air conditioning systems.
3. Chillers and cooling towers.
4. Ground source heating and cooling systems, including wells, pumps, and piping.
5. Boilers and hot water systems.
6. Scheduled or occupancy sensor lighting controls.
7. Daylight dimming controls.
8. Refrigeration systems.
9. Building Envelope (doors, windows, penetrations, roof, barriers).
10. Emergency power generators and automatic transfer switching.
11. Uninterruptible power supply systems.
12. Natural gas systems.
13. Grounding systems.
14. Life safety systems (communications only).
15. Exhaust, vent hoods, and pressurization.
16. Electrical panels, including exterior installations.
17. Domestic and process water pumping and mixing systems.
18. Elevators and conveyors.
19. Equipment sound control systems and testing.
20. Data center and network communications systems including heat mapping and testing.
21. Dispatch and telecommunications systems.
22. Audio video, training systems.
23. Paging systems.
24. Security and access control system.
25. Plumbing systems.
26. Process instrumentation and controls.
27. Fluid pumping, metering, and controls.

e. The CA shall assist the City, as early in the design process as possible, in determining the appropriate level of commissioning that is required for the size and complexity of the building and its components and shall provide these recommendations in writing.

1.1 Detailed Tasks of Services

(EXAMPLE)

Programming Phase (0%)

Task:	\$ 0.00
(sub-consultant work):	\$ 0.00

Schematic Design Phase (0%)

Task:	\$ 0.00
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Design Development Phase (0%)

Task:	\$ 0.00
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Construction Document Phase (0%)

Task:	\$ 0.00
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Bidding Phase

Task:	\$ 0.00
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Construction Administration Phase

Task:	\$ 0.00
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Base Fee Subtotal **\$ 0.00**

Reimbursable expenses (travel): \$ 0.00

Reimbursable expenses (printing): \$ 0.00

Owner's Contingency
(Owner's written consent required): \$ 0.00

Total Fees for Professional Consulting Services: \$ 0.00

1.2 Design / Construction Project Schedule (for all Project Phases)

a. The Design Consultant shall use a Project Schedule to identify activities and durations, design phases and projected design phases, milestones, anticipated construction delivery dates, and other information for use during the design of the Project.

b. The CA shall provide their activities and schedule durations in sufficient detail for the Designer to be capable of including this information in the Design Project Schedule. The CA shall provide updates on their activities as the design progresses through the Design Development and Construction Documents / Bid Phase of the Project to include updates to the Project Schedule.

c. During the Construction Phase, the CA shall provide their activities and schedule in sufficient detail for the CMAR to be capable of including this information in the Construction Project Schedule.

d. The CA shall review and recommend changes and support the CMAR in the development and management of the Project Construction Schedule throughout construction. The CA shall evaluate and advise the City on all schedule updates provided by the CMAR that involve the CA.

1.3 Minutes, Reports, Presentations, And Statements (for all Project Phases)

a. On items for which the Consultant is lead, the Consultant shall provide meeting agendas, notes and meeting minutes, reports, recommendations, and other information for the duration of the Project. The Consultant is to present findings and other items to various authorities, committees, and City Management as may be required to provide a complete Project satisfactory for permit, bid, and construction. The Consultant shall notify and coordinate meeting schedules with the availability of the City, Designer, and Contractor staff.

b. The following information is to be provided to the City in report format as may be requested and suitable for presentation by the Consultant to various committees, Council, agencies, and other parties (Note: Dates noted below are goals for the Consultant to meet to effective document meetings and decisions and may be revised based on schedule constraints with concurrence from the City):

- Meeting agendas of scheduled meetings will be prepared suitable for distribution and comments to requested attendees at least two (2) working days prior to the meeting.
- Draft minutes of all meetings, with action items, action party, dates, and recommendations are to be provided within two (2) business days after the occurrence of the meeting. The consultant shall request comments and corrections to be provided within two (2) business days after the publication of the draft minutes.
- Final minutes of all meetings, with action items, action party, dates, and recommendations are to be provided within one (1) business day following the receipt of comments and corrections of the draft minutes.
- Final minutes of all meetings, with action items, action party, dates, and recommendations are to be provided within five (5) working days after the occurrence of the meeting.
- All other data in the hands of the Consultant that can be released that would assist the City in reviewing the accomplishment of work on the Project.

c. The Consultant shall provide reports updating the commissioning activity status of the Project and minutes of meetings, reviews, or inspections conducted by the Consultant to the City, with a copy to the Contractor, or other firms as may be engaged. These reports shall be provided during various design and construction phases. Meeting minutes shall be provided following the conclusion of any meeting, inspection, or review conducted by the Consultant regarding the Project.

1.4 Design Phase Services

The Designer will be performing the design development in the following phases:

- 1) **Concept Phase:** This design submittal represents approximately 10–15% of the design effort and shall be used to document and validate Project requirements and the Project construction cost.
- 2) **Preliminary Engineering and Schematic Design:** The preliminary engineering and schematic design development phase represents approximately 25–35% of the total design effort and is intended to fix and illustrate the size and character of the entire Project as to plan and vertical relationships.
- 3) **Engineering and Design Development Phase Services:** This phase shall be conducted and provided in two submittals, an Interim Design (50–65% design effort) and a Final Design (95–100% design effort).
- 4) **Construction Contract Documents Phase Services:** Final plan and specification development for project bidding and permitting.
- 5) **Permitting Phase:** Final plans for submission to authorities having jurisdiction for permits prior to project bidding.

The Consultant shall participate in all phases of design from schematic design through permitting. During these various phases, the Consultant shall attend design update meetings at periodic intervals to keep abreast of current designs. Consultant shall notify the City of any inconsistencies discovered in the information presented during the meetings that may detrimentally affect the performance or maintenance of the proposed building systems and equipment for the Project.

With input from the Designer and City, the Consultant shall develop the final Owner Project Requirements (OPR) document for use during the project design and construction. Updates to the OPR shall be provided as items are changed or updated.

During these various phases, the Consultant shall also provide required commissioning project documents, specifications, recommendations, proposed test methods, and testing recommendations for the commissioned systems in the appropriate detail for the level of design development and within the review period as specified by the Designer or City.

The Consultant shall review the criteria and standards used and proposed in the design development that affect commissioned equipment and systems and provide reports and recommendations to the Designer and City within the review period as requested by the City.

The Consultant shall assist the Designer in defining and documenting all the various networks required for the new facility(s) including voice telecommunications, radio, dispatch, logging and recording, network, administrative systems, video systems, network time synchronization, any

NG 911 requirements as well as establishing diversity and redundancy requirements for each network.

The Consultant shall provide a review of proposed schedules for commissioning activities to be provided for inclusion in the design schedule and construction documents, noting activities and durations required to complete the project.

The Consultant shall assist in developing a strategy for the migration and integration of existing and future information technology applications and hardware into the new facility with no interruption of critical functions.

The Consultant shall review and provide comments regarding the Basis of Design (BOD) documents as developed during the design development phases.

The Consultant shall provide review and comments regarding the Sustainability Report w/ASHRAE 90.1 energy models, energy model and report, LCCA report, and other information as required in the Sustainable, Energy Efficient Buildings (GS 143-135.35-.40) section of the State Construction Manual as provided by the Designer at the completion of the design phases.

The Consultant shall verify that completed construction documents provide that instructional and training sessions, coordinated with the City's staff, CA, Designer, and Contractor, shall be provided a minimum of 30 days prior to acceptance or occupancy to properly train the City's maintenance personnel.

The Consultant shall ensure construction documents include requirements for the Contractor to provide a listing of all required training and demonstrations for review and approval by the City. The Consultant shall ensure construction documents include requirements for electronic media recordings to be provided in standard digital format, for all owner training sessions of the various systems and equipment, in the appropriate specification section. Training and media recording of all major mechanical and life safety systems and other systems shall be provided and so noted in the specifications with completed documents turned over to the City within fourteen (14) days of the demonstration or training completion dates.

1.5 Bidding Phase Services

The Consultant will:

- a. Answer commissioning related questions promptly to facilitate the bidding process established for the project.
- b. Assist the design team and CMAR in responding to questions and issuing appropriate amendments to interested bidders.

1.6 Construction Phase Services

The Consultant will:

- a. Perform the tasks and functions of the Commissioning Agent as outlined in the contract and commissioning specifications.
- b. Coordinate and direct the commissioning activities in a logical, sequential, and efficient manner using consistent protocols and forms, centralized documentation, clear and regular communications and consultations with all necessary parties, frequently updated timelines and schedules, and technical expertise.
- c. Coordinate the commissioning work with the contractor and construction manager to ensure that commissioning activities are being incorporated into the master schedule.
- d. Revise, as necessary, the construction phase commissioning plan developed during design, including scope and schedule, to coincide with the developed construction schedule and actual contractor personnel.
- e. Plan and conduct commissioning meetings, as needed, and distribute minutes. In addition to regular meetings, the CA is responsible for preparing monthly commissioning Progress Reports during the construction phase as applicable to the commissioning efforts being performed. These reports shall include, at a minimum, the following information:
 - Progress & status report on commissioning activities, along with look-ahead schedules for planning.
 - Identification of systems or assemblies that do not perform in accordance with Owner's Project Requirements.
 - Provide results from the latest version of the Issues Log (importance, cost, and measures for correction).
 - Review planned commissioning test procedures and provide any data resulting from testing or observations.
 - Review any deferred (and reason for deferring) and seasonal tests.
 - Provide suggestions for enhancements that will improve the commissioning process and/or the delivered facility during the construction.

A general schedule of anticipated construction phase meetings is noted below. The meetings may be adjusted with the City to best fit the actual construction schedule:

- a) Periodic monthly meetings as may be necessary through approximately 60% completion to stay abreast of schedule, requests for information, and submittals related to commissioned systems and equipment.
- b) Bi-monthly meetings as may be necessary from approximately 60% through 80% completion for activities related to commissioned systems and equipment.
- c) Weekly meetings as may be necessary from 80% through 100% completion and final commissioning to observe and participate in start-up, testing, and training activities related to commissioned systems and equipment.

f. Request and review additional information required to perform commissioning tasks, including O&M materials, contractor start-up, and checkout procedures. Before startup, gather and review the current control sequences and interlocks and work with contractors and design engineers until sufficient clarity has been obtained, in writing, to be able to write detailed testing procedures.

g. Review and provide comments for Contractor submittals applicable to systems being commissioned for compliance with commissioning needs, concurrent with Designer reviews.

h. Review and provide comments regarding requests for information and change orders for impact on commissioning activities and equipment or systems being commissioned, including issues related to addressing the owner's objectives.

i. Review coordination drawings related to equipment or systems being commissioned to ensure that trades are making a reasonable effort to coordinate with each other and that the maintenance and access needs of the owner are being addressed.

j. Write and distribute construction checklists for commissioned equipment. With necessary assistance and review from installing contractors, write the functional performance test procedures for equipment and systems. This will include manual functional testing, and energy management control system trending and may include stand-alone data-logger monitoring.

k. Develop a start-up and initial systems checkout plan with contractors for selected equipment.

l. Perform site visits during regularly scheduled meetings, or as necessary, to observe component and system installations. Attend selected planning and job site meetings to obtain information on construction progress related to commissioning activities. Review construction meeting minutes for revisions/substitutions relating to the commissioning process. Assist in resolving any discrepancies.

m. Perform, or provide checks sufficient to document the satisfactory performance of the tasks by the contractor, for the following pre-functional testing tasks:

- Witness HVAC piping pressure test and flushing, sufficient to be confident that proper procedures were followed. Include testing documentation in the Commissioning Record.
- Witness any ductwork testing and cleaning sufficient to be confident that proper procedures were followed. Include documentation in the Commissioning Record.
- Document construction checklist completion by reviewing completed construction checklists and by selected site observation.
- Document systems startup by reviewing start-up reports and by selected site observation.
- Approve air and water systems balancing by spot testing, by reviewing completed reports, and by selected site observation.

n. Coordinate, witness, and document sufficient to be confident that proper procedures were followed, for the functional performance tests performed by the installing contractors on all commissioned systems. Coordinate retesting as necessary until satisfactory performance is achieved. Additional testing required by the CA due to documented continued failed performance by the contractors and vendors will be an additional service paid for by the contractors and vendors. The commissioning specifications to be included in the contract documents will clearly address the procedures and process for payment methods and reimbursement due to documented failed testing efforts. The functional testing shall include operating the system and components through each of the written sequences of operation and other significant modes and sequences, including startup, shutdown, unoccupied mode, manual mode, staging, miscellaneous alarms, power failure, security alarm when impacted, and interlocks with other systems or equipment. Sensors and actuators shall be calibrated during construction check listing by the installing contractors, and spot checked by the commissioning provider during functional testing. Analyze functional performance trend logs and monitoring data to verify performance.

o. Tests on respective HVAC equipment shall be executed, if possible, during both the heating and cooling seasons. However, some overwriting of control values to simulate conditions shall be allowed. Functional testing shall be done using conventional manual methods, control system trend logs, and read-outs or stand-alone data loggers, to provide a high level of confidence in proper system function, as deemed appropriate by the CA and the Owner.

p. Prepare test plans for, assist with execution of, and document tests of commissioned equipment overseen by regulatory authorities and ensure that such tests meet the testing rigor desired by the Owner.

q. Maintain a master issues log and a separate record of functional testing. Report all issues as they occur directly to the Owner, Designer, and Contractor. Provide written progress reports and test results with recommended actions.

r. Develop and complete all documentation required to complete LEED templates for the Commissioning Pre-requisite, Enhanced Commissioning Credit, and Measurement and Verification Credit for which involved.

s. Provide a format and content for Operations and Maintenance Documentation (O&M) and review the operation and maintenance manuals and equipment warranties for commissioned systems and equipment to ensure that the Owner is provided with sufficient information to maintain the commissioned equipment and that operation and maintenance responsibilities are clearly defined. Review the O&M manuals for commissioned equipment for accuracy and completeness.

t. Provide a format and content for training syllabi and content and training schedules for each commissioned system. The CA will oversee and review the training of the Owner's operating personnel. The CA will also ensure specifications are developed for all systems to videotape all Owner training activities and provide oversight for the videotaping of this training.

Compile a Final Commissioning Record, which shall include:

a summary report that includes a list of participants and roles, a brief building description, an overview of the commissioning and testing scope, and a general description of testing and verification methods.

For each piece of commissioned equipment, the report should contain the disposition of the CA regarding the adequacy of the equipment, documentation, and training in meeting the contract documents in the following areas:

- Equipment specifications.
- Equipment installation.
- Functional performance and efficiency.
- Equipment documentation.
- Operator training.
- All outstanding non-compliance items. Recommendations for improvement to equipment or operations, future actions, commissioning process changes, etc. shall also be listed. Each non-compliance issue shall be referenced to the specific functional test, inspection, trend log, etc. where the deficiency is documented.
- The Issues Log
- Commissioning plan
- Progress report
- Submittal and O&M manual reviews
- Training records
- Start-up reports, functional tests, and trend log analysis.
- Control drawings, sequences of control (from approved submittals by contractor), and a table of all set points and implications when changing them.
- Operational schedules and system or equipment set-points.
- Sensor locations, and procedures to check and verify function.
- Instructions for operation of each piece of equipment for emergencies, seasonal adjustment, startup, and shutdown.
- Recommendations for re-commissioning frequency by equipment type.
- A statement that systems have been completed in accordance with the contract documents and that the systems are performing in accordance with the final Owner's Project Requirements document.
- Summary of any issues unresolved and any recommendations for resolution.
- Any post-construction activities and results including deferred and seasonal testing results, test data reports, and additional training documentation.
- Lessons learned for future commissioning efforts.

1.7 Post–Construction Phase (Construction Warranty Period)

The Post–Construction phase will begin with the completion of the Project and shall run through the completion of the Contractor's construction contract one-year warranty.

The Consultant will:

a. Coordinate and supervise required opposite season or deferred testing and deficiency corrections and provide the final testing documentation for the Commissioning Record and O&M manuals.

b. Participate in quarterly or other periodic warranty inspections for any systems that exhibit operational problems or concerns or which are not operating as intended. Provide reports and other documents outlining corrective measures taken and any necessary adjustments that are made to the system and equipment controls.

c. Return to the site at approximately ten (10) months into the twelve (12) month warranty period for the final warranty review and:

- Review with facility staff the current building operation and the condition of outstanding issues related to the original and seasonal commissioning.
- Interview facility staff to identify problems or concerns they have with operating the building as originally intended.
- Recommend any improvements or revisions to the sequence of operations or setpoints, including any changes to the O&M manuals.
- Identify issues that are still under warranty in the original construction contract.
- Assist facility staff in developing reports and documents and requests for services to remedy outstanding problems.

End of Scope of Standard Work to be performed by the Professional Commissioning Agent Consultant