

REQUEST FOR PROPOSALS

CATS FUEL TREATING AND CLEANING OF DIESEL STORAGE TANKS

RFP # 269-2026-1974



CHARLOTTESM



**CITY OF CHARLOTTE
NORTH CAROLINA**

JULY 27, 2026

REQUEST FOR PROPOSALS
RFP # 269-2026-1974
CATS Fuel Treating & Cleaning of Diesel Storage Tanks

JULY 27, 2026

Interested Company:

The City of Charlotte, North Carolina, is now accepting Proposals for Plumbing Maintenance and Repair Services. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the "RFP"). Please review them carefully.

The City of Charlotte is using the Bonfire e-Procurement Portal ("Procurement Portal" - <https://charlottenc.bonfirehub.com>) to accept and evaluate proposals for this RFP. Proposals must be submitted electronically through the Procurement Portal on or before the Due Date in order to be accepted.

A **Non-Mandatory Virtual Pre-Proposal Conference**, for the purpose of reviewing the RFP and answering questions regarding the Services, will be held on **August 10, 2026 at 2:00 p.m. (EST)**. No onsite meeting will be held and Service Provider(s) should not come to the City expecting to attend in person. *While attendance at the Pre-Proposal Conference is not mandatory, all interested Service Provider(s) are encouraged to participate.*

Click here to join – [Non-Mandatory Pre-Proposal: CATS Fuel Treating/Cleaning of Diesel Storage Trucks](#)

To join via phone only - 872-256-4172 Conference ID: 131 820 121#

Please have a copy of the RFP available for reviewing during the Pre-Proposal Conference. Proposal submissions are due no later than **August 24, 2026 at 3:00 p.m. (EST)**.

An electronic copy of the RFP in Microsoft Word format may be obtained on the Bonfire Procurement Portal by searching for the RFP Title or Number.

RFP questions must be directed to Andre Branch, Department of Contracting and Procurement, per the enclosed instructions in Section 2.2.

The City is an equal opportunity purchaser.

Sincerely,

Andre Branch

Transit Procurement Officer

Checklist for submitting a Proposal:

Step 1 – Read the document fully.

Step 2 – Review the solicitation timeline and upcoming events in the Procurement Portal and download copies of any documents if you plan to submit a Proposal.

Step 3 – (Optional) Submit any questions via the Procurement Portal by the deadline(s) noted for the solicitation.

Step 4 Conduct a thorough review of the Sample Contract. Any exceptions to the Sample Contract must be uploaded in word format (with redlines/tracked changes) and/or noted on the Exceptions form found in the Required forms within this RFP.

Step 5 Monitor the Procurement Portal for any addendums and/or responses to questions.

If you plan to submit a Proposal, you must follow this checklist and include everything detailed below.

Proposal Format - Proposals should be formatted as follows:

- ☐ Cover Letter per **Section 4.1.1**
- ☐ Proposed Solution per **Section 4.1.2**
- ☐ **Section 6, Form 1, Request for Proposal Acknowledgement**
- ☐ **Section 6, Form 2, Addenda Receipt Confirmation**
- ☐ **Section 6, Form 3, Proposal Submission**
- ☐ **Section 6, Form 4, Pricing Worksheet**
- ☐ **Section 6, Form 5, References Form**
- ☐ Exceptions to any part of the RFP (If you take any exceptions to anything in this document list it in a category in your Proposal, please complete the Exceptions form in **Section 6, Form 5** and offer an alternative solution.)

The above items constitute all that must be included in the Proposal. If awarded a contract, you will be required to provide an insurance certificate that meets or exceeds the requirements set forth in Exhibit A – Sample Contract.

It is the Company's responsibility to check the City's Procurement Portal (Bonfire) at the following link [CATS Fuel Treating and Cleaning of Diesel Storage Tanks](#) for any addenda or changes to this Project.

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Section 1

Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the City to determine which Company and Proposed Solution will best meet the City's needs for the Services detailed in the Scope of Work. Charlotte Area Transit System (CATS) Facilities department requires a goods and services contract for Fuel treating and cleaning the Diesel storage tanks. CATS operates out of 8 Diesel USTs between two locations].

1.2. Definitions.

As used in this RFP, the following terms shall have the meanings set forth below:

<i>Acceptance:</i>	Refers to receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria in the Contract.
<i>Affiliates:</i>	Refers to all departments or units of the City and all other governmental units, boards, committees or municipalities for which the City processes data or performs services.
<i>Biodegradable:</i>	Refers to the ability of an item to be decomposed by bacteria or other living organisms.
<i>Charlotte Business INclusion/CBI:</i>	Refers to the Charlotte Business INclusion office of the City of Charlotte.
<i>Charlotte Business INclusion Policy/CBI Policy:</i>	Refers to the policy adopted by City Council, which seeks to enhance competition in contracting and procurement opportunities for MWSBEs located in the Charlotte Combined Statistical Area.
<i>Charlotte Combined Statistical Area:</i>	Refers to the area consisting of the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union, and the South Carolina counties of Chester, Lancaster, and York; a criterion used by Charlotte Business INclusion to determine eligibility to participate in the program.
<i>City:</i>	Refers to the City of Charlotte, North Carolina.
<i>City Project Manager:</i>	Refers to a specified City employee representing the City's best interests in this Project.
<i>Company:</i>	During the solicitation process, refers to a company that has interest in providing the Services. After the solicitation process, refers to a company that has been selected by the City to provide the Services.
<i>Company Project Manager:</i>	Refers to a specified Company employee representing the best interests of the Company for this Project.
<i>Contract:</i>	Refers to a written agreement executed by the City and the Company for all or part of the Services.
<i>Deliverables:</i>	Refers to all tasks, reports, information, designs, plans, and other items that the Company is required to deliver to the City in connection with the Contract.
<i>Department:</i>	Refers to a department within the City of Charlotte.

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<i>Documentation:</i>	Refers to all written, electronic, or recorded works that describe the use, functions, features, or purpose of the Deliverables or Services or any component thereof, and which are provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, and logic diagrams.
<i>Environmentally Preferable Products:</i>	Refers to products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.
<i>Evaluation Committee:</i>	Refers to a City-appointed committee that will evaluate Proposals and identify the Company(-ies) best meeting the needs of the City.
<i>Minority-owned Business Enterprise/ MBE:</i>	Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one (1) or more persons who are members of one of the following groups: African American or Black, Hispanic, Asian, Native American or American Indian; and (iii) has significant business presence in the Charlotte Combined Statistical Area.
<i>MWSBE:</i>	Refers to SBEs, MBEs, and WBEs, collectively.
<i>MWSBE Goal:</i>	If an RFP or Contract has separate Subcontracting Goals for MBEs, WBEs, and/or SBEs, the term MWSBE is a shorthand way to refer collectively to all MBE, WBE, and SBE Goals set for the RFP. In some instances, the City may set one (1) combined goal for MBEs, WBEs, and/or SBEs, in which event the term MWSBE Goal refers to that one (1) combined goal. In the latter instance, calculated as a percentage, the MWSBE Goal represents the total dollars spent with MBEs, WBEs, and SBEs as a portion of the total Proposal amount, including any contingency.
<i>Post-Consumer Recycled Material:</i>	Refers to material and by-products which have served their intended end-use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Project:</i>	Refers to the City's need for a company to provide CATS Fuel Treating & Cleaning of Diesel Storage Tanks for the City.
<i>Proposal:</i>	Refers to the proposal submitted by a Company for the Services as outlined in this RFP.
<i>Recyclability:</i>	Refers to products or materials that can be collected, separated, or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.

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<i>Recycled Material:</i>	Refers to material and by-products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Services:</i>	Refers to the CATS Fuel Treating & Cleaning of Diesel Storage Tanks as requested in this RFP.
<i>Small Business Enterprise/SBE:</i>	Refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties, and performance standards relating to the Deliverables and Services that are set forth or referenced in: (i) this RFP, including any addenda; (ii) the Documentation; and (iii) any functional and/or technical specifications that are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Deliverables or Services.
<i>Subcontracting Goal:</i>	Refers to a SBE, MBE, WBE, and/or MWSBE Goal established by the City for an RFP and resulting Contract.
<i>Trade Secrets:</i>	Information of the City or any of its suppliers, contractors or licensors that: (i) derives value from being secret; and (ii) the owner has taken reasonable steps to keep confidential. See N.C. Gen. Stat. § 66-152 et seq. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
<i>Woman-owned Business Enterprise/WBE:</i>	Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one or more persons who are female; and (iii) has significant business presence in the Charlotte Combined Statistical Area.
<i>Work Product:</i>	Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Company in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.

1.3. Accuracy of RFP and Related Documents.

Each Company must independently evaluate all information provided by the City. The City makes no representations or warranties regarding any information presented in this RFP, or otherwise made available during this procurement process, and assumes no responsibility for conclusions or interpretations derived from such information. In addition, the City will not be bound by or be responsible for any explanation or conclusions regarding this RFP or any related documents other than those provided by an addendum issued by the City. Companies may not rely on any oral statement by the City or its agents, advisors, or consultants.

Introduction and General Information

If a Company identifies potential errors or omissions in this RFP or any other related documents, the Company should immediately notify the City of such potential discrepancy in writing. The City may issue a written addendum if the City determines clarification necessary. Each Company requesting an interpretation will be responsible for submitting them per Section 2.2.

1.4. City's Rights and Options.

The City reserves the right, at the City's sole discretion, to take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the City, including:

- 1.4.1. To supplement, amend, substitute, or otherwise modify this RFP, including the schedule, at any time;
- 1.4.2. To cancel this RFP with or without the substitution of another RFP;
- 1.4.3. To require one or more Companies to supplement, clarify or provide additional information in order for the City to evaluate the Proposals submitted
- 1.4.4. To investigate the qualifications, experience, capabilities, and financial standing of each Company submitting a Proposal;
- 1.4.5. To waive any defect or irregularity in any Proposal received;
- 1.4.6. To reject any or all Proposals;
- 1.4.7. To share the Proposals with City employees other than the Evaluation Committee or City advisory committees as deemed necessary;
- 1.4.8. To award all, none, or any part of the Services and enter into Contracts with one or more of the responding Companies deemed by the City to be in the best interest of the City, which may be done with or without re-solicitation;
- 1.4.9. To discuss and negotiate with any Company(-ies) their Proposal terms and conditions, including but not limited to financial terms;
- 1.4.10. To terminate discussions and negotiations with any Company at any time and for any reason;
- 1.4.11. To issue additional requests for information; and
- 1.4.12. To take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interest of the City.

1.5. Expense of Submittal Preparation.

The City accepts no liability, and Companies will have no actionable claims, for reimbursement of any costs or expenses incurred in participating in this solicitation process. This includes expenses and costs related to Proposal submission, submission of written questions, attendance at pre-proposal meetings or evaluation interviews, contract negotiations, or activities required for contract execution.

1.6. Proposal Conditions.

- 1.6.1. The following terms are applicable to this RFP and the Company's Proposal Not An Offer. This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and the Company execute a Contract. No recommendations or conclusions from this RFP process concerning the Company shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.
- 1.6.2. Right to Terminate Discussions.

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The Company's participation in this process might result in the City selecting the Company to engage in further discussions. The commencement of such discussions, however, does not signify a commitment by the City to execute a Contract or to continue discussions. The City can terminate discussions at any time and for any reason.

1.6.3. Trade Secrets and Personal Identification Information.

Definition.

Upon receipt by the City, all materials submitted by a Company (including the Proposal) are considered public records except for (1) material that qualifies as "trade secret" information under N.C. Gen. Stat. § 66-152 et seq. ("Trade Secrets") or (2) "personally identifiable information" protected by state or federal law, to include, but not be limited to, Social Security numbers, bank account numbers, and driver's license numbers ("Personally Identifiable Information" or "PII").

Instructions for Marking and Identifying Trade Secrets.

If any Proposal contains Trade Secrets or PII, such Trade Secrets and PII must specifically and clearly be identified by clearly separating them from the rest of the Proposal and marked either "Personally Identifiable Information – Confidential" or "Trade Secret—Confidential and Proprietary Information." This confidentiality caption must appear on each page of the Trade Secret or PII materials, and the document(s) must be submitted separately in the Procurement Portal.

Availability of Proposals to City Staff and Contractors.

By submitting a Proposal, each Company agrees that the City may reveal any Trade Secret materials and PII contained therein to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the City to assist in the evaluation process.

Availability of Proposals via Public Records Requests.

Any person or entity (including competitors) may request Proposals submitted in response to an RFP. Only those portions of RFPs properly designated as Trade Secret or PII are not subject to disclosure. The public disclosure of the contents of a Proposal or other materials submitted by a Company is governed by N.C. Gen. Stat. §§ 132 and 66-152, et seq.

When determining whether to mark materials as Trade Secret, please note the following:

- Entire Proposals may not be marked as Trade Secret
- Pricing may not be marked as Trade Secret

The City may disqualify and Company that designates its entire Proposal as a trade secret, or any portion thereof that clearly does not qualify under applicable law as a Trade Secret or PII. Each Company agrees to indemnify, defend, and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material that the Company has designated as a Trade Secret or PII. This includes an obligation on the part of the Company to defend any litigation brought by a party that has requested Proposals or other information that the Company has marked Trade Secret or PII.

1.6.4. Statutory Requirements.

Any Contract awarded as a result of this RFP shall be in full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable.

1.6.5. Reservation of Right to Change Schedule.

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The City shall ultimately determine the timing and sequence of events resulting from this RFP. The City reserves the right to delay the closing date and time for any phase if City staff believe that an extension will be in the best interest of the City.

1.6.6. Reservation of Right to Amend RFP.

The City reserves the right to amend this RFP at any time during the process, if it believes that doing so is in the best interests of the City. Any addenda will be posted to [the Procurement Portal](#). Companies are required to acknowledge receipt of each addendum.

1.6.7. No Collusion or Conflict of Interest.

By responding to this RFP, the Company shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Company submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.

1.6.8. Proposal Terms Firm and Irreversible.

The signed Proposal shall be considered a firm offer on the part of the Company. The City reserves the right to negotiate price and other terms. All Proposal elements (including all statements, claims, declarations, prices, and specifications) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Company chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election. Any false or misleading statements found in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.

1.6.9. Charlotte Business INclusion Program.

Pursuant to Charlotte City Council's adoption of the Charlotte Business INclusion (CBI) Policy, the CBI program seeks to enhance competition and participation of Minority-owned, Women-owned, and Small Business Enterprises (MWSBEs) in City contracting. To accomplish this, the City has examined its procurements and set specific MWSBE participation goals on a contract-by-contract basis. In addition, CBI makes a concerted effort to expand its certified MWSBE vendor pool and assist city-certified firms in growing, enhancing, and developing their businesses. CBI currently offers numerous development programs that support certified businesses in organizational training, strategic development, and networking opportunities.

The CBI Policy and CBI Manual are posted online here: www.charlottebusinessinclusion.com

To determine whether disparities exist in City contracting based on race, gender or other factors, and also to measure the effectiveness of the City's Charlotte Business INclusion ("CBI") Program, the City tracks the utilization of subconsultants and suppliers on certain City contracts based on race, gender, small business status, and other factors. For analysis purposes, it is important that the City obtain this data not only for minority-owned, women-owned, and small business suppliers and subconsultants, but also for other subconsultants and suppliers. As a condition for receiving payments under this Contract, the Proposer agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the City, detailing the amounts paid by the Consultant to all subconsultants and suppliers receiving payment in connection with this Contract.

1.6.10. Subcontracting.

The Company given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Company shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The City retains the right to approve all subcontractors. Additionally, the City must be named as a third-party beneficiary in all subcontracts.

Section 1

Introduction and General Information

- 1.6.11. Equal Opportunity.
The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the goods and services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Companies regardless of race, color, religion, age, sex, and national origin or disability.
- 1.6.12. Title VI Solicitation Notice: Note: Unless otherwise stated herein, this section is only applicable to purchases made by or on behalf of the Aviation Department. The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises or airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.
- 1.6.13. Use of City's Name.
No advertising, sales promotion, or other materials of the Company or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.
- 1.6.14. Withdrawal for Modification of Proposals.
Companies may change or withdraw a previously-submitted Proposal at any time prior to the Proposal due date by editing or removing their submission on the Procurement Portal.
- 1.6.15. No Bribery.
In submitting a response to this RFP, each Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract.
- 1.6.16. Exceptions to the RFP.
Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Sample Contract language. An "exception" is defined as the Company's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including in the Sample Contract. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Company provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Company's solution, must be described in detail.
- Exceptions must be submitted under the Acknowledgement section in the Procurement Portal. If exceptions are not identified in your Proposal, they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal counsel needs to review the Sample Contract prior to signature, reviews must be completed before your Proposal is submitted. The City reserves the right to refuse consideration of any terms not so included. Any proposed changes to the Sample Terms after tentative contract award may constitute a material change to the Company's Proposal and be grounds for revoking the award.
- The City intends to enter into a City-drafted Contract with the successful Company that contains the terms and conditions set forth in the Sample Services Contract. The number

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and extent of any exceptions and proposed additions to the Sample Terms will be one of the City's evaluation criteria.

Notwithstanding the foregoing, the City reserves the right to modify the Sample Terms prior to or during contract negotiations if it is in the City's best interest to do so.

1.6.17. Fair Trade Certifications.

By submitting a Proposal, the Company certifies that:

- The prices in its Proposal have been arrived at independently, without consultation, communication, or agreement with anyone, as to any matter relating to such prices for the purpose of restricting competition;
- Unless otherwise required by law, the prices quoted in its Proposal have not been knowingly disclosed by the Company and will not knowingly be so disclosed prior to the Proposal due date; and
- No attempt has been made or will be made by the Company to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

1.6.18. Companies' Obligation to Fully Inform Themselves.

Companies or their authorized representatives must fully inform themselves as to all conditions, requirements, and specifications of this RFP before submitting a Proposal. Failure to do so will be at the Company's own risk.

1.6.19. Environmentally Preferable Purchasing.

The City promotes the practice of Environmentally Preferable Purchasing (EPP) in acquiring products or services. Applicable EPP attributes that may be taken into consideration as environmental criterion include the following:

Recycled content	Recyclability
Reduced Packaging	Biodegradability
Compostability	Durability
Reduced toxicity	Take-back options
Energy Efficiency	Water efficiency
Life Cycle Management	Pollution Prevention
Low volatile organic compounds	End-of-life management

Companies able to supply products or services containing any of the applicable environmentally preferable attributes that meet performance requirements are encouraged to offer them in the Proposal using the provided Questionnaire in the Procurement Portal. Companies must provide certification of environmental standards and other environmental claims, such as recycled content and emissions data or a formal statement signed by a senior company official.

1.6.20. Disclaimer

Each Company must perform its own evaluation and due diligence verification of all information and data provided by the City. The City makes no representations or warranties regarding any information or data provided by the City.

1.6.21. Amendments to RFP.

If the City of Charlotte and/or CATS amends to the RFP, addenda will be posted to the City's Procurement Portal [CATS Fuel Treating and Cleaning of Diesel Storage Tanks](#). Companies are required to acknowledge receipt of each addendum by including the Addenda Receipt Confirmation Form (Section 6, Form 2) with their proposals.

2. PROCUREMENT PROCESS.

This Section 2 contains information about the procurement process for this Project.

2.1. Schedule and Process.

The following chart shows the schedule of events for the conduct of this RFP. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
JULY 27, 2026	<i>Issuance of RFP.</i> The City issues this RFP.
AUGUST 4, 2026	<i>Submission of Written Questions <u>Prior</u> to Pre-Proposal Conference.</i> Companies are permitted to submit questions for purposes of clarifying this RFP. All submissions must be pursuant to the instructions in Section 2.2 by 5:00 P.M. (EST)
AUGUST 10, 2026	<i>Non-Mandatory Pre-Proposal Conference</i> to be held via the link indicated in Section 2.3 at 2:00 p.m. (EST)
AUGUST 14, 2026	<i>Submission of Questions <u>After</u> the Pre-Proposal Conference.</i> Questions are due by 5:00 p.m. (EST).
AUGUST 24, 2026	<i>Proposal Submission. Proposals are due by 3:00 p.m. (EST) via the Procurement Portal.</i>
AUGUST 24, 2026 – AUGUST 28, 2026	<i>Evaluation.</i> The Evaluation Committee will assess each Proposal and conduct evaluation activities with Companies.
TBD	<i>Services Commence.</i> Company begins providing the Services.

2.2. Interpretations and Addenda.

There are two (2) ways to ask questions about this RFP: (1) submit a question through the **Vendor Discussion** section on the Procurement Portal; or (2) ask a question at the Pre-Proposal Conference. Other than these permitted methods, Companies should refrain from contacting City staff prior to the Proposal due date. **The City is not bound by any statements, representations or clarifications regarding this RFP other than those provided in writing by the Procurement Officer.**

In order for questions to be addressed at the Pre-Proposal Conference, they must be submitted by **5:00 p.m. (EST) on August 4, 2026.**

After the Pre-Proposal Conference, follow-up questions must be submitted in the Procurement Portal by the deadline of 5:00 p.m. (EST) on August 14, 2026 as stated in Section 2.1.

When responding to Company questions or issuing addenda to the RFP, the City will post the answer or information to the Bonfire/Euna Procurement Procurement Portal.

2.3. Pre-Proposal Conference.

A Non-Mandatory Pre-Proposal Conference will be conducted on **August 10, 2026 at 2:00 p.m. (EST).** Meeting information is provided below:

Click here to join – [Non-Mandatory Pre-Proposal: CATS Fuel Treating/Cleaning of Diesel Storage Trucks](#)

To join via phone only - 872-256-4172 Conference ID: 131 820 121#

While attendance at the Pre-Proposal Conference is not mandatory, all interested Companies are encouraged to attend. If special accommodations are required for attendance, please notify the City in advance through the **Vendor Discussion** section of the Procurement Portal.

2.4. Submission of Proposals.

Proposals must be in the format specified in Section 4 of this RFP by **August 24, 2026 on or before but no later than 3:00 p.m. (EST)**.

When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. **Proposals sent by fax or email will not be accepted.**

Do not arrive at City Procurement on the Proposal due date for the purposes of reviewing your competitors' Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved. All Proposals will be time-stamped upon receipt and held in a secure place until opening.

2.5. Correction of Errors.

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Company further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

2.6. Evaluation.

As part of the evaluation process, the Evaluation Committee may engage in discussions with one or more Companies. Discussions might be held with individual Companies to determine in greater detail the Company's qualifications, to explore with the Company the scope and nature of the required contractual Services, to learn the Company's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City.

The City may in its discretion require one (1) or more Companies to make presentations to the Evaluation Committee or appear before the City and/or its representatives for an interview. During such interview, the Company may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the City deems appropriate. Companies will be notified in advance of the time and format of such meetings.

Since the City may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall state the Company's best offer for performing the Services described in this RFP.

2.7. Contract Award by Council.

As soon as practical after opening the Proposals, the name of the apparent successful Company will be submitted to the Council for final approval of award and the Procurement Officer will provide Contract documents to the Company. In the event the Council approval is not received within one hundred eighty (180) calendar days after opening of the Proposals, the Company may request that it be released from the Proposal.

2.8. Vendor Inclusion.

The City's vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all Companies. Although Companies are not required to be registered in the City's vendor registration system prior to submitting a Proposal, in order to execute a contract with the City and receive payment from the City, all Companies must register with the City's vendor registration system.

Your registration provides the City with baseline information for your company including location, contact and demographic information, as well as your areas of expertise with specific commodity and/or service descriptions. You will also have the opportunity to complete any applicable certifications if your company desires to establish itself as an SBE, MBE, or WBE. The link below will provide you with the opportunity to complete your registration on-line with the City.

<http://charlottenc.gov/vendors>

3. SCOPE OF CATS FUEL TREATING & CLEANING OF DIESEL STORAGE TANKS.

3.1. General Scope.

Charlotte Area Transit System (CATS) Facilities department requires a goods and services contract for Fuel treating and cleaning of Diesel storage tanks.
Spend estimated at \$97,040 annually.

While the City is flexible with respect to certain elements of the CATS Fuel Treating & Cleaning of Diesel Storage Tanks, the City has specific requirements and preferences for the Service delivery method.

3.2. Equipment & Site

UST Biocide Treatment/Tank Sampling/Polishing

Charlotte Area Transit System (CATS) is requesting bids for biocide treatments and fuel sample testing for our diesel USTs. CATS operates out of 8 diesel USTs between two locations.

Site Details

- 3145 South Tryon, Charlotte, NC
 - o Three (3) 40,000 Gallon Diesel USTs and one (1) 10,000 Gallon Diesel UST on property.
- 900 North Davidson, Charlotte, NC
 - o Four (4) 40,000 Gallon Diesel USTs on property.

Biocide Treatment Quarterly biocide treatment at a minimum, to be increased as needed, at both locations and all USTs.

3.3. Requirements.

Fuel Polishing:

Annual fuel polishing to be administered to each UST at both locations, to be increased as needed. Polishing procedure to include complete vacuum removal of water, sludge and microbial organisms. Fuel sampling pictures to be provided at start and end of process of each tank for visual comparison of completed work.

Fuel Sample Testing:

Fuel Sample Testing Quarterly fuel sampling from each UST at both locations. Fuel samples shall be taken from a top, mid and low-level tank position from each UST. The testing must meet ASTM Standard D4176.

Quality Assurance Experience:

Work shall be performed by a contractor of established reputation with a minimum of five (5) years' experience performing UST fuel sampling and biocide treatment plans.
Cleaning will be increased to two time per year, therefore the estimated cost increases by 50%.

The Contractor must handle, remove, transport and dispose of all non-hazardous and hazardous waste generated from the process of tank cleaning in a safe, effective and efficient manner which is in full compliance with all current applicable statutes, ordinances, orders, rules and regulations of the federal, state and local governments.

The Contractor must identify and provide all permits, certificates, manifests, labels, land disposal restriction forms and any other forms required by federal, state and local laws to safely and lawfully transport and dispose of the nonhazardous waste generated from the tank cleaning process. All forms must be prepared by the Contractor. Those forms can at any time reviewed by an authorized representative of the Charlotte Area Transit Systems.

Specific Biocide Chemical to be used

- **Primrose MP8 Microbicide.**

Safety Requirements:

The Contractor must submit a "Safety Process Plan" detailing the work safety practices that must be enforced while on the Charlotte Area Transit Systems property or within a Charlotte Area Transit Systems owned facility.

The Contractor must provide a Safety Data Sheet (SDS) for the chemicals being provided to the Charlotte Area Transit Systems.

Warranty Information:

The Contractor must warrantee all tanks for 30 days against any microbial or biological reoccurrence for all tanks that have been cleaned or polished.

The Contractor agrees to promptly correct by repair or replacement any defect or failure of compliance that may develop within the standard warranty period. Any part or component replaced under this guarantee extends the original standard warranty an additional standard warranty period

4. PROPOSAL CONTENT AND FORMAT.

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Company's preference, the City requires strict adherence to the format. All Forms and Questionnaires shall be found and submitted in the City's Procurement Portal. The Proposal shall be submitted in the format described below:

- A. Cover letter;
- B. Proposed Solution;
- C. The "Request for Proposal Acknowledgement" (Required Form) set forth in Section 6, Form 1
- D. The "Addenda Receipt Confirmation" (Required Form) set forth in Section 6, Form 2;
- E. The "Proposal Submission" (Required Form) set forth in Section 6, Form 3;
- F. The "Pricing Worksheet" (Required Form) set forth in Section 6, Form 4;
- G. The "References Form" (Required Form) set forth in Section 6, Form 5;
- H. Exceptions to the RFP, including the Sample Contract in Section 7 (**if applicable**).

Companies are required to organize the information requested in this RFP in accordance with the format and instructions outlined above and detailed below. Failure to do so may result in the City, at its sole discretion, deeming the Proposal non-responsive. The Company, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.1. Proposal Content.

4.1.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents. The cover letter shall provide the name, address, telephone and facsimile numbers of the Company along with the name, title, address, email address, and telephone numbers of the executive that has the authority to contract with the City. The cover letter shall present the Company's understanding of the Project and a summary of the approach to perform the Services.

4.1.2. Proposed Solution.

Given the purpose of this Project and the City's goals as stated in this RFP and General Scope, provide a creative solution to meet such goals. **For each component of the Project described in Section 3, state whether and how your Proposed Solution complies - as well as any additional information requested.** If you wish to add supplemental information, it shall be labeled "Supplemental Information."

4.1.3. Required Forms.

To be deemed responsive to this RFP, Companies must complete, in detail, all Proposal Forms listed in this Section 4, items numbered C through F.

4.1.4. Exceptions to the RFP.

Exceptions must be submitted in accordance with Section 1.6.12 of this RFP. If exceptions are not identified in your Proposal, they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal counsel needs to review the Sample Contract prior to signature, reviews must be completed before your Proposal is submitted.

The City intends to enter into a City-drafted Contract with the successful Company that contains the terms and conditions set forth in Section 7 ("Sample Terms"). The number and extent of any exceptions and proposed additions to the Sample Terms will be one of the City's evaluation criteria.

Accordingly, each Company must state specifically in its Proposal any exceptions to the Sample Terms, or any such exceptions will be waived. Any Company-proposed additional terms or conditions must also be included in the Proposal, and the City reserves the right to

Section 4

Proposal Content and Format

refuse consideration of any terms not so included. Any proposed changes to the Sample Terms after tentative contract award may constitute a material change to the Company's Proposal and be grounds for revoking the award.

Notwithstanding the foregoing, the City reserves the right to modify the Sample Terms prior to or during contract negotiations if it is in the City's best interest to do so.

Section 5

Proposal Evaluation Criteria

5. PROPOSAL EVALUATION CRITERIA.

Proposals will be evaluated based on the Company's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Company to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Company's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Services and requested herein. Failure of any Company to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the City based on, but not limited to, the criteria below. The City reserves the right to modify the evaluation criteria or waive portions thereof. Proposals will be evaluated on the following major categories:

- a. Qualifications, Experience, And Approach;
- b. Cost Effectiveness and Value; and
- c. Acceptance of the Terms of the Contract

5.1. Qualifications, Experience, and Approach.

Companies will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the City's, and the feasibility of the Company's approach for the provision of the Services.

5.2. Cost Effectiveness and Value.

Under this criterion, Proposals will be compared in terms of the most reasonable and effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services and administration of the Contract.

5.3. Acceptance of the Terms of the Contract.

The City will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP including the sample contract language provided. Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with Sections 1.6.16 of this RFP.

REQUIRED FORM 1 – REQUEST FOR PROPOSALS ACKNOWLEDGEMENT
RFP # 269-2026-1974

CATS Fuel Treating and Cleaning of Diesel Storage Tanks

The Company hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina RFP #269-2026-1974, CATS FUEL TREATING and CLEANING of DIESEL STORAGE TANKS. This form should be completed upon receipt of the City's Request for Proposals and included in the proposal as part of Required Forms.

This completed form can also be emailed to the email address below, before August 4, 2026 in preparation for the Non-Mandatory Pre-Proposal Meeting. **Failure to submit this form by the designated date above shall not preclude the Company from submitting a proposal, but will need to be submitted as a Required Form by or before the proposal deadline of August 24, 2026 at 3:00 p.m. (EST).**

Andre Branch
Department of Contracting and Procurement
Email: andra.branch@charlottenc.gov

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Contact Name: _____

Contact E-mail Address: _____

Contact Phone Number: _____

If emailing this form by or before August 4, 2026 in preparation for the Non-Mandatory Pre-Proposal Meeting, please check the appropriate space below and provide the requested information:

_____ We plan to attend the Pre-Proposal Conference and plan on submitting a Proposal

_____ We do not plan to attend the Pre-Proposal Conference but plan on submitting a Proposal

_____ We do not plan to attend the Pre-Proposal Conference and do not plan on submitting a Proposal

Reason: _____

REQUIRED FORM 2 – ADDENDA RECEIPT CONFIRMATION
RFP # 269-2026-1974

CATS Fuel Treating and Cleaning of Diesel Storage Tanks

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to the City's Procurement Portal at [CATS Fuel Treating and Cleaning of Diesel Storage Tanks](#).

ADDENDUM #:

**DATE ADDENDUM
DOWNLOADED FROM NC IPS:**

I certify that this proposal complies with the Specifications and conditions issued by the City except as clearly marked in the attached copy.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

REQUIRED FORM 3 – PROPOSAL SUBMISSION FORM
RFP # 269-2026-1974

CATS Fuel Treating and Cleaning of Diesel Storage Tanks

This Proposal is submitted by:

Company Legal Name: _____

Representative (printed): _____

Address: _____

City/State/Zip: _____

Email address: _____

Telephone: _____
(Area Code) Telephone Number

The representative signing above hereby certifies and agrees that the following information is correct:

1. In preparing its Proposal, the Company has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned prohibited discrimination.
2. For purposes of this Section, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor or supplier on the basis of race, ethnicity, gender, age or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the Proposal submitted by the Company on this Project and to terminate any contract awarded based on such Proposal.
4. As a condition of contracting with the City, the Company agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Company further agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Company or terminate any contract awarded on such proposal.
5. As part of its Proposal, the Company shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the Company in a legal or administrative proceeding alleging that the Company discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and

Section 6 Required Forms

complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts.

7. None of Company's or its subcontractors' owners, employees, directors, or contractors will be in violation of the City's Conflict of Interest Policy for City, Secondary and Other Employment Relationships (HR 13) if a Contract is awarded to the Company.
8. It is understood by the Company that the City reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and resolicit this RFP.
9. This Proposal is valid for one hundred and eighty (180) calendar days from the Proposal due date.

I, the undersigned, hereby acknowledge that my company was given the opportunity to provide exceptions to the Sample Contract as provided in the RFP. As such, I have elected to do the following:

☐ Include exceptions to the Sample Contract in the following section of my Proposal:

☐ Not include any exceptions to the Sample Contract.

I, the undersigned, hereby acknowledge that my company was given the opportunity to indicate any Trade Secret materials or Personally Identifiable Information ("PII") as detailed in Section 1.6.2. I understand that the City is legally obligated to provide my Proposal documents, excluding any appropriately marked Trade Secret information and PII, upon request by any member of the public. As such, my company has elected as follows:

☐ The following section(s) of the of the Proposal are marked as Trade Secret or PII:

☐ No portion of the Proposal is marked as Trade Secret or PII.

Representative (signed): _____

REQUIRED FORM 4 – PRICING WORKSHEET
RFP # 269-2026-1974

CATS Fuel Treating and Cleaning of Diesel Storage Tanks

Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project as stated in the Scope of Service in Section 3 of this RFP. Cost must be in United States dollars (USD). **If there are additional costs associated with the Services, please add to this chart. Your Price Proposal must reflect all costs for which the City will be responsible.**

For purposes of this RFP, assume an initial term of three (3) years, with the City having an option to renew for up to two (2) additional consecutive one-year terms thereafter.

	Labor Rate per Hour (\$)
Standard (6:00am - 10:30pm) Monday - Friday	
After Hours (10:31pm - 5:59am) Monday - Friday	
Weekend (10:31pm - 5:59am) Friday - Monday	
Holiday (12:00am - 11:59pm)	

Type of Biocide	Biocide Cost Per 1,000 Gallon
Alternate Biocide:	

Fuel Sampling	Labor Cost per UOM (\$)

REQUIRED FORM 5 - REFERENCES
RFP # 269-2026-1974

CATS Fuel Treating and Cleaning of Diesel Storage Tanks

Companies shall utilize the format below to provide a **minimum of three (3) client references**. The City's preference is for references from organizations of similar size or where the Company is performing similar services to those described herein. If such references are not available, individuals or companies that can speak to the Company's performance are adequate.

REFERENCE:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REFERENCE:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REFERENCE:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

REFERENCE:

Name of Client: _____ Main Phone: _____

Address: _____

Primary Contact: _____ Title: _____

Contact Phone: _____ Contact E-mail: _____

Service Dates: _____

Summary & Scope of Project: _____

Contract Value: \$ _____ Number of Client Employees: _____

Section 7
Sample Contract

EXHIBIT A - SAMPLE CONTRACT

Contract #: {---Contract Number---}

{---Contract Title---}

Effective Date: {---Effective Date---}	City Vendor#: {---Vendor Number---}								
Between the City of Charlotte ("City") and {---Vendor Legal Name---}, ("{---Vendor Reference Name---}")									
This cover sheet ("Cover Sheet") and each of the attachments listed below ("Attachments") together comprise a {---Contract Title---} (the "Contract") entered into as of the Effective Date, between {---Vendor Legal Name---} a {---Vendor State of Incorporation---} {---Vendor Entity Type---} registered to do business in North Carolina and the City of Charlotte, a North Carolina municipal corporation:									
ATTACHMENTS <table style="width: 100%;"> <tr> <td style="width: 50%;">Service Terms</td> <td style="width: 50%;">Federal Transit Contracting Terms</td> </tr> <tr> <td>General Conditions</td> <td>Confidentiality Terms</td> </tr> <tr> <td>Price Schedule</td> <td></td> </tr> <tr> <td>Scope of Services</td> <td></td> </tr> </table>		Service Terms	Federal Transit Contracting Terms	General Conditions	Confidentiality Terms	Price Schedule		Scope of Services	
Service Terms	Federal Transit Contracting Terms								
General Conditions	Confidentiality Terms								
Price Schedule									
Scope of Services									
Term: This Contract will start on the Effective Date and continue through midnight on {---Expiration Date---} (the "Initial Term"). Renewals: The City will have the option to renew this Contract for up to {---Number of Renewal Terms---} one-year terms by giving notice to {---Vendor Reference Name---}.									
Services. {---Vendor Reference Name---} agrees to perform the services described in the Attachments ("Services") under the terms and conditions set forth in this Contract. Compensation. The City will pay for the Services at the rates set forth in the Price Schedule. These rates shall remain firm for the duration of this Contract, unless otherwise stated in the Price Schedule. Payment Cap: Notwithstanding any renewal, the City's payment obligations under this Contract shall not exceed: {---Payment Cap---} (the "Payment Cap") absent a written amendment executed by the City. Capitalized terms used in this Contract have the meanings assigned in this Contract	Email invoices to: cocap@charlottenc.gov -or- Mail invoices to the following: City of Charlotte A/P Attn: P.O. Box 37979 Charlotte, NC 28237-7979 Each invoice shall include the <u>purchase order number and Contract Number</u> and shall be accompanied by a sales tax statement <u>or</u> shall have the sales tax amount shown clearly, along with the invoice total, on the face of the invoice.								
Vendor Business Contact {---Vendor Primary Contact Name---} {---Vendor Legal Name---} {---Vendor Street1---} {---Vendor Street2---} {---Vendor City, State, Zip---} Phone: {---Vendor Office Phone---} Email: {---Vendor Email Address---}	City Business Contact {---City Admin First Name---} {---City Admin Last Name---} {---City Department---} {---City Main Contact Address---} {---City Admin City---}, {---City Admin State---} {---City Admin Postal Code---} Phone: {---City Admin Office Phone---} Email: {---City Admin Email Address---}								
By signing below, the parties accept and agree to the terms set forth in this Contract. <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> {---Vendor Legal Name---} Signature: _____ Print Name: _____ Title: _____ Date: _____ </td> <td style="width: 50%; vertical-align: top;"> City of Charlotte Signature: _____ Print Name: _____ Title: _____ Date: _____ </td> </tr> </table>		{---Vendor Legal Name---} Signature: _____ Print Name: _____ Title: _____ Date: _____	City of Charlotte Signature: _____ Print Name: _____ Title: _____ Date: _____						
{---Vendor Legal Name---} Signature: _____ Print Name: _____ Title: _____ Date: _____	City of Charlotte Signature: _____ Print Name: _____ Title: _____ Date: _____								

Section 7
Sample Contract

RESERVED	Notwithstanding anything contained herein to the contrary, the parties acknowledge and agree that no pre-audit certificate is required under N.C. Gen. Stat. §159-28(a) because this Contract imposes no financial obligation on the City that will become due during the City's current fiscal year. The City's fiscal year runs from July 1 to June 30. The current fiscal year is the one in which the Contract is executed.
-----------------	---

SERVICE TERMS

This Attachment is incorporated into the {---Contract Title---} (“**Contract**”) between the City of Charlotte (“**City**”) and {---Vendor Legal Name---} (“**Vendor Reference Name**”). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

1. **Services.** {---Vendor Reference Name---} agrees to perform the services described in the Scope of Services Attachment (the “Services”). Additional Scope of Services Attachments may be added to this Contract by a written amendment, and once added shall become part of the “Services.”
2. **Expenses.** {---Vendor Reference Name---} shall not be entitled to charge the City for any travel, mileage, meals, materials, or other costs or expenses associated with this Contract.
3. **Premium Rates.** Unless explicitly listed in the Price Schedule, {---Vendor Reference Name---} will not charge the City at overtime, emergency, or other premium rates, regardless of the number of hours worked in a given day or week.
4. **Billing Records.** During the term of this Contract and for three (3) years after it terminates, {---Vendor Reference Name---} will keep documentation sufficient to verify the amounts billed to the City. The City has the right to audit {---Vendor Reference Name---}'s time cards, invoices, reports and other documents relating to amounts charged under this Contract, and will not be required to pay for: (a) any time billed that was excessive in light of the result achieved, or (b) any Services that did not meet the standards and requirements referenced in this Contract. {---Vendor Reference Name---} agrees to make such documents available for inspection and copying by the City in Charlotte, North Carolina between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday, within ten (10) days after the City requests them. The City shall pay its own expenses relating to such audits, but shall not have to pay any expenses or additional costs of the {---Vendor Reference Name---}. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the {---Vendor Reference Name---} shall be required to reimburse the City for the cost of the audit.
5. **Employment Taxes and Employee Benefits.** {---Vendor Reference Name---} acknowledges and agrees that {---Vendor Reference Name---}'s employees and subcontractors are not employees of the City. {---Vendor Reference Name---} represents, warrants, and covenants that {---Vendor Reference Name---} will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation, and other payments and deductions that are required by law relating to provision of the Services. {---Vendor Reference Name---} shall indemnify, defend, and hold harmless the City and the City's officials, employees and agents from and against any and all claims, losses, damages, fines, penalties, obligations, liabilities and expenses, including but not limited to reasonable attorneys' fees arising from any claim that an individual performing the Service is an employee of the City.
6. **City Ownership of Work Product.** The City will have exclusive ownership of all reports, documents, designs, ideas, materials, concepts, plans, creative works, software, data, programming code and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the “Intellectual Property”). {---Vendor Reference Name---} hereby assigns and transfers all rights in the Intellectual Property to the City. {---Vendor Reference Name---} further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain, and enforce the City's rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. {---Vendor Reference Name---} hereby appoints the City as attorney in fact to execute all such assignments and instruments and agrees that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.
7. **License to Use Intellectual Property.** The City grants {---Vendor Reference Name---} a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. {---Vendor Reference Name---} may not use the Intellectual Property for other purposes without the City's prior written consent, and {---Vendor Reference Name---} agrees to treat the Intellectual Property and all City data with the same level of protection that {---Vendor Reference Name---} afford {---Vendor Reference Name---}'s own trade secrets and intellectual property.
8. **Contract Data.** The City shall have exclusive ownership of the following (collectively referred to as “Contract Data”): (a) all data produced or generated under this Contract for the benefit of the City or its customers; and (b) all data provided by, accessed through, or processed for the City under this Contract. {---Vendor Reference Name---} will promptly format the Contract Data to the City in machine readable format upon the City's request at any time while this Contract is in effect or within three years after this Contract terminates.
9. **Company Will Not Sell or Disclose Contract Data.** {---Vendor Reference Name---} will treat Contract Data as Confidential Information under this Contract. {---Vendor Reference Name---} will not reproduce, copy, duplicate, disclose, or use the Contract Data in any manner except as authorized by the City in writing or expressly permitted by this Contract.
10. **Supporting Data.** If {---Vendor Reference Name---} will be providing work product under this Contract that is based on an analysis of data {---Vendor Reference Name---} will provide the City with all data supporting {---Vendor Reference Name---}'s analysis (“Supporting Data”) in a machine-readable format, together with a written description of the methods of analysis. Excluding Confidential Information of {---Vendor Reference Name---} (as defined in this Contract), the City shall be permitted to reproduce, copy, duplicate, disclose, or use

the Supporting Data for any purpose, and it shall be treated as a public record under North Carolina law.

11. **City Resources.** The City is not required to provide any information, personnel, facilities, or other resources aside from what is specifically required in the Scope of Service unless the City can do so at no cost. When this Attachment requires the City to provide a resource, {---Vendor Reference Name---} shall request it in writing in a timely manner. If {---Vendor Reference Name---} will be delayed in performing due to any failure by the City to provide a resource required by this Contract, {---Vendor Reference Name---} shall promptly notify in writing both the City Business Contact and Official Notice Recipients identified in the General Conditions. Failure or delay by the City to provide required resources will not excuse {---Vendor Reference Name---} from any failure or delay in performance unless {---Vendor Reference Name---} has followed these steps. The duration of any excused delay will be limited to the time period after {---Vendor Reference Name---} has followed these steps.
12. **Compensation for Termination Without Cause.** If the City terminates this Contract without cause, the City shall pay {---Vendor Reference Name---} for Services rendered through the date of termination at the rates set forth in the Price Schedule. The City's obligation to make such payments is conditioned upon {---Vendor Reference Name---} having complied with the Section of General Conditions captioned "Obligations On Termination," and is subject to the City's right to inspect billing records and dispute any charges as provided under this Attachment.
13. **Removal and Replacement of Personnel.** "Key Personnel" are the individuals listed as such on the Scope of Service, and any other individuals whom the City reasonably deems integral to successful performance of the Services. Absent the City's written approval, {---Vendor Reference Name---} will not: (i) remove Key Personnel from performance of this Contract or permit {---Vendor Reference Name---}'s subcontractors to remove Key Personnel from performance of this Contract; or (ii) materially reduce or allow {---Vendor Reference Name---}'s subcontractors to materially reduce the involvement of Key Personnel in performing this Contract. The City will have the right to interview and approve Key Personnel, and also to require the removal and replacement of Key Personnel if the City has reasonable grounds to believe that the individual is not suitable for the assignment, including without limitation insufficient experience, inadequate qualifications, lack of necessary skills, improper conduct, background check results, or other grounds. Upon receipt of a request for rejection, removal, or replacement of an individual, {---Vendor Reference Name---} will promptly comply with the request and provide the City with the requisite background materials for a proposed alternate or successor. If {---Vendor Reference Name---} does not believe the City has reasonable grounds for making the request, {---Vendor Reference Name---} will notify the City in writing and the City will have the right to exercise its termination rights under the Contract, or to suspend the Contract and any payments due until such matter is resolved.
14. **Regeneration of Lost or Damaged Data.** If {---Vendor Reference Name---} loses or damages any data in the City's possession, {---Vendor Reference Name---} will, at {---Vendor Reference Name---}'s own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at {---Vendor Reference Name---}'s own expense, a new machine-readable copy of lost or damaged data from the City's data sources.
15. **City Materials and Data Treated as Confidential.** {---Vendor Reference Name---} will treat as confidential information all data and materials provided by or processed for the City in connection with this Contract. {---Vendor Reference Name---} will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.
16. **Background Checks.**
 - 16.1. **BACKGROUND CHECKS REQUIRED PRIOR TO WORK.** Prior to starting work under this Contract, {---Vendor Reference Name---} will conduct a background check on each {---Vendor Reference Name---} employee assigned to work under this Contract, and will require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (b) a reference check.
 - 16.2. **NEW CHECKS REQUIRED EACH YEAR AND PRIOR TO NEW PROJECTS.** After starting work under this Contract, {---Vendor Reference Name---} will, on an annual basis, perform a Background Check for each {---Vendor Reference Name---} employee assigned to work under this Contract during that year, and will require its subcontractors (if any) to do the same for each of their employees. If {---Vendor Reference Name---} undertakes a new project under this Contract, then prior to commencing performance of the project {---Vendor Reference Name---} will perform a Background Check for each {---Vendor Reference Name---} employee assigned to work on the project, and will require its subcontractors (if any) to do the same for each of their employees.
 - 16.3. **ADDITIONAL INVESTIGATION OF CERTAIN EMPLOYEES.** If a person's duties under this Contract fall within the categories described below, the Background Checks that {---Vendor Reference Name---} will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:
 - 16.3.1. If the job duties require driving: A motor vehicle records check.
 - 16.3.2. If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.

- 16.3.3. If job duties include entering a private household or interaction with children: A sexual offender registry check.
- 16.4. COMPLIANCE WITH APPLICABLE LAW. {---Vendor Reference Name---} must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.
- 16.5. DUTY TO REPORT INFORMATION TO CITY. {---Vendor Reference Name---} shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.
- 16.6. CHECKS CONDUCTED BY CITY. The City may conduct its own background checks on principals of {---Vendor Reference Name---} as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

GENERAL CONDITIONS

This Attachment is incorporated into the {---Contract Title---} ("Contract") between the City of Charlotte ("City") and {---Vendor Legal Name---} ("---Vendor Reference Name---"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

1. **PRIORITY OF ATTACHMENTS.** In the event of a conflict among the Attachments or Federal Transit Administration Contracting Terms, as applicable) shall have first priority, and all other Attachments shall have priority in the order in which they are listed on the Cover Sheet.
2. **INVOICES.** Each invoice sent by {---Vendor Reference Name---} shall detail all Services performed and delivered which are necessary to entitle {---Vendor Reference Name---} to the requested payment under the terms of this Contract. All invoices must include an invoice number and the City purchase order number for purchases made under this Contract. Purchase order numbers will be provided by the City. Invoices must be submitted with lines matching those on the City-provided purchase order.
3. **PAYMENT TERMS.** The City will pay undisputed, properly submitted invoices within thirty (30) days after receipt. As a condition of payment, {---Vendor Reference Name---} must invoice the City for Services within sixty (60) days after the Services are performed. {---Vendor Reference Name---} WAIVES THE RIGHT TO CHARGE THE CITY FOR ANY SERVICES THAT HAVE NOT BEEN INVOICED WITHIN SIXTY (60) DAYS AFTER SUCH SERVICES WERE RENDERED.
4. **TERMINATION FOR CONVENIENCE.** For any reason or no reason, the City may terminate this Contract at any time by giving thirty (30) days written notice to {---Vendor Reference Name---}. The City shall only pay for Products and Services rendered through the date of termination, subject to Company's compliance with Section 8 (Obligations on Termination Section). {---Vendor Reference Name---} shall terminate and/or cancel all subcontracts and orders outstanding for such services and products that it is legally entitled to cancel.
5. **TERMINATION FOR CAUSE.** Without limiting any other termination rights set forth in this Contract, either party may terminate this Contract for default if the other party fails to cure a material breach or fails to fulfill its duties, covenants, or obligations as described in the Contract within thirty (30) days after receipt of written notice that identifies the breach and the intent to terminate if not cured. In addition, the City may terminate this Contract for default without a cure period if {---Vendor Reference Name---}:
 - 5.1. makes a misrepresentation or provides misleading information in connection with the solicitation, or any provision contained in this Contract;
 - 5.2. attempts to assign, terminate or cancel this Contract except as prescribed;
 - 5.3. ceases to do business, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties; or
 - 5.4. acts in a way that creates a risk to safety or causes or is likely to cause the City to incur property damage, fines, or penalties.
6. **TERMINATION CONVERSION.** If the Contract is terminated by the City for cause but it is later conclusively determined that the {---Vendor Reference Name---} has not in fact defaulted, the termination shall be deemed to have been effected for the convenience of the City and the {---Vendor Reference Name---} shall be paid through the date of the termination.
7. **AUTHORITY TO TERMINATE.** Authority to terminate this Contract on behalf of the City rests with the City Manager and Deputy City Manager, or any designee of the forgoing having the same level of delegated signature authority as would have been required to execute the Contract.
8. **OBLIGATIONS ON TERMINATION.** Upon expiration or termination of this Contract, {---Vendor Reference Name---} will promptly provide to the City, at no cost, (i) all data, materials, software, and equipment provided to {---Vendor Reference Name---} by or on behalf of the City; (ii) all deliverables that are completed or in process as of the date of termination; and (iii) a statement of all Services performed through termination, together with such detail and documentation as is otherwise required under this Contract for payment. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information", as defined in the Section titled Confidentiality Terms. Any termination shall not relieve {---Vendor Reference Name---} of the obligation to pay any fees, taxes or other charges then due to the City. Termination shall not relieve the {---Vendor Reference Name---} from any claim for damages previously accrued or then accruing against {---Vendor Reference Name---}. In the event that the City disputes in good faith an allegation of default by {---Vendor Reference Name---}, notwithstanding anything to the contrary in this Contract, the {---Vendor Reference Name---} agrees that it will not terminate this Contract or suspend or limit the delivery of

the Work or any warranties or repossess, disable or render unusable any Software supplied by the {---Vendor Reference Name---}, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

9. **REPRESENTATIONS AND WARRANTIES.** {---Vendor Reference Name---} represents, warrants, and covenants that: (a) all Services and deliverables will meet and comply with Contract requirements, applicable law, and accepted industry standards; (b) each person providing the Services has the qualifications, skills, experience, and knowledge necessary to perform the tasks assigned; (c) no services or deliverables provided under this Contract will infringe or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property rights of any third party; (d) neither the execution nor the performance of this Contract will violate any third party contractual rights; (e) {---Vendor Reference Name---} is a duly organized and validly existing entity of the type set forth in the first paragraph of this Contract, is in good standing under the laws of the state specified in the first paragraph of this Contract, and is registered to do business in North Carolina; and (f) {---Vendor Reference Name---} has the requisite power and authority to execute and perform this Contract. {---Vendor Reference Name---} and each person signing this Contract for {---Vendor Reference Name---} represents and warrants that the execution, delivery, and performance of this Contract have been duly authorized by {---Vendor Reference Name---}. Additional warranties may be set forth in the Attachments.

10. REMEDIES.

- 10.1. **Right to Withhold Payment.** The City is entitled to setoff and deduct from any amounts owed to {---Vendor Reference Name---} under this Contract all damages and expenses incurred due to the {---Vendor Reference Name---}'s breach. If {---Vendor Reference Name---} breaches any provision of this Contract, the City may elect to withhold a portion of or all payments due until the breach has been fully cured. The City may obtain performance of the work elsewhere.

- 10.2. **Misappropriation or Infringement Breach.** In the event of a violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the work provided under this Contract, in addition to the indemnification obligation under the Contract, {---Vendor Reference Name---} shall (i) procure the right for the City to use the infringing product or service; or (ii) repair or replace the infringing product or service so that it is no longer infringing so long as such modification does not adversely affect the Contract.

- 10.3. **Other Remedies.** The election of one remedy does not waive other legal or equitable remedies that a party may pursue. The remedies enumerated herein are in addition to any other remedy available at law or in equity, such as the right to cover.

- 10.4. **Reserved.**

11. **INDEMNIFICATION.** To the fullest extent permitted by law, {---Vendor Reference Name---} shall indemnify, defend, and hold harmless the City and the City' officials, employees, and agents from and against any claims, losses, damages, fines, penalties, royalties, obligations, liabilities, and expenses, including but not limited to reasonable attorneys' fees to the extent that they arise from actual or alleged:

- 11.1. Breach of contract, negligence or willful misconduct by {---Vendor Reference Name---} or any of {---Vendor Reference Name---}'s agents, employees, or subcontractors, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness, or disease to any person(s) or damage to or destruction of any property whether real, personal, or intangible, and including data and other intellectual property;
- 11.2. Violation of any federal, state, or local law, ordinance, rule, regulation, guideline, or standard by {---Vendor Reference Name---} or its employees or subcontractors, or by any service, product, or deliverable provided under this Contract;
- 11.3. Violation, misappropriation, or infringement of any copyright, trademark, patent, trade secret, or other proprietary rights with respect to any services products or deliverables provided under this Contract ("Infringement Claims");

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

In any case in which {---Vendor Reference Name---} provides a defense to the City pursuant to this indemnity, the defense will be provided by attorneys reasonably acceptable to the City. The provisions of this Contract regarding indemnity will survive the expiration or termination of this Contract.

If this Contract is funded in full or in part by federal funds, the indemnity rights granted to the City in this Contract shall also extend to the U.S. Government agency that extends such funding, and to the agency's officers, officials, employees, agents, and independent contractors (excluding {---Vendor Reference Name---}).

12. **INSURANCE.**

{---Vendor Reference Name---} shall provide and maintain at its expense during the term of this Contract the following program(s) of insurance covering its operations. Such insurance shall be provided by insurer(s) qualified to do business in North Carolina, have a rating at least "A-" by A.M. Best, and be satisfactory to the City as approved by the City's Risk Management Division. Evidence of such programs satisfactory to the City shall be delivered to the City on or before the effective date of this Contract and prior to commencing any work hereunder. Such policy shall list "City of Charlotte, 600 East Fourth St. Charlotte, NC 28202" as an additional insured for operations or services, rendered under this Contract. City is to be given written notice within thirty (30) days of any termination of any program of insurance.

{---Vendor Reference Name---}'s insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from {---Vendor Reference Name---}'s operations under this Contract. If any of the coverage conditions are met by a program of self-insurance, {---Vendor Reference Name---} must submit evidence of the right to self-insure as provided by the State of North Carolina.

{---Vendor Reference Name---} and each of its subcontractors shall and does waive all rights of subrogation against the City and each of its indemnified parties. The City shall be exempt from, and in no way liable or responsible for any sums of money that may represent a deductible or self-insured retention in any insurance policy of the Company or its subcontractors.

The following insurance is required under this Contract:

(a) Automobile Liability

Evidence of current automobile insurance (attach copy of automobile policy declaration page(s)) or submit a current certificate of insurance, showing the vehicles covered and coverage amounts as the appropriate one of the following:

- i. If {---Vendor Reference Name---} owns or leases commercial vehicles to provide goods or perform a service under this Contract, Automobile Liability must be provided at a limit of not less than \$1,000,000 per occurrence/aggregate, combined single limit, each occurrence, for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles.
- ii. If {---Vendor Reference Name---} does not own or lease any vehicles but is using their personal vehicles to perform a service under this Contract, primary Personal Automobile Liability may be provided at limits not less than \$100,000 each person, \$300,000 each accident and property damage liability of \$50,000.
- iii. If {---Vendor Reference Name---} does not own or lease any vehicles but has employees using their vehicles to provide goods or perform a service under this Agreement, Company must provide hired/non-owned automobile liability coverage at a limit of not less than \$1,000,000 per occurrence aggregate.

(b) Commercial General Liability

Insurance with a limit not less than \$1,000,000 per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability.

(c) Workers' Compensation Insurance

Insurance meeting the statutory requirements of the State of North Carolina and any applicable Federal laws; and, Employers' Liability - \$1,000,000 per accident limit, \$500,000 disease per policy limit, \$1,000,000 disease each employee limit. If {---Vendor Reference Name---} does not employ more than 2 full time employees, {---Vendor Reference Name---} must attest this fact on company letterhead and include such letter in this Contract.

13. **NOTICE.** Any notice, consent, waiver, authorization, or approval referenced in this Contract must be in writing, and delivered in person, by U.S. mail, overnight courier or electronic mail to the City and {---Vendor Reference Name---} Contacts identified on the Cover Sheet (or as updated in writing from time to time). Notice of breach, default, termination, prevention of performance, delay in performance, modification, extension, or waiver must also be copied to the recipients listed below (the "**Official Notice Recipients**"), and if sent by electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier:

{---City Attorney Assigned---}
City Attorney's Office
600 East Fourth Street
Charlotte, NC 28202
704-336-2254
{---City Atty email---}

{---City Department Head---
{---City Department---
{---City Dept. Street Address---
Charlotte, NC {---City Dept. Zip---
{---City Dept. Phone---
{---City Department email---

{---Vendor Primary Contact Name---
{---Vendor Legal Name---
{---Vendor Street1---} {---Vendor Street2---
{---Vendor City, State, Zip---
{---Vendor Office Phone---
{---Vendor Email Address---

Notice shall be effective upon receipt by the intended recipient. The parties may change their Official Notice Recipients by written notice to the other party.

14. **WORK ON CITY'S PREMISES.** Whenever on City premises, {---Vendor Reference Name---} will obey all instructions and City policies applicable to City employees and contractors that {---Vendor Reference Name---} is made aware of. If {---Vendor Reference Name---} causes damage to the City's equipment or facilities, {---Vendor Reference Name---} will promptly repair or replace such damaged items at {---Vendor Reference Name---}'s expense.
15. **NON-APPROPRIATION OF FUNDS.** If City Council does not appropriate the funding needed by the City to make payments under this Contract for a given fiscal year, the City will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify {---Vendor Reference Name---} of the non-appropriation and this Contract will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the City that is attributable to non-appropriation of funds shall constitute a breach of or default under this Contract.
16. **REQUIRED BY CITY ORDINANCE: COMMERCIAL NON-DISCRIMINATION.** {---Vendor Reference Name---} agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, which is available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. {---Vendor Reference Name---} consents to be bound by the award of any arbitration conducted thereunder.
17. **REQUIRED BY STATE LAW.**
 - 17.1. E-Verify. {---Vendor Reference Name---} will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and shall ensure that each of its subcontractors also do so.
 - 17.2. NC Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel. By executing this contract, {---Vendor Reference Name---} represents and warrants that it is eligible to contract with the City because it is not identified as an ineligible company on the State Treasurer's list created pursuant to G.S. 147-86.58 or identified as a restricted company for purposes of the Israel Boycott. Company also agrees to immediately notify the City if it is identified as an ineligible company on either list at any time during the term of this Contract.
18. **CHARLOTTE BUSINESS INCLUSION POLICY.** The City has adopted a CBI Policy, which is posted on the City's website at <https://charlottenc.gov/GS/procurement/cbi/Pages/default.aspx>. The parties agree that:
 - 18.1. That Charlotte Business Inclusion Program Policy ("CBI Policy") and its Administrative Procedures Manual ("CBI Manual") are posted on the City's website and available in hard copy form upon request. Both the CBI Policy and CBI Manual comprise the CBI Program.
 - 18.2. The terms of the CBI Program, as revised from time-to-time, are incorporated into this Agreement by reference; and
 - 18.3. A violation of the CBI Program shall constitute a material breach of this Agreement and shall entitle the City to exercise any of the remedies set forth in the CBI Program, including but not limited to liquidated damages.
 - 18.4. The City will incur damages if the {---Vendor Reference Name---} violates the CBI Program, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to incur as a result of such failures are

difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the {---Vendor Reference Name---} agrees to pay the liquidated damages assessed by the City at the rates set forth in the CBI Program for each specified violation. The {---Vendor Reference Name---} further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation.

- 18.5. Without limiting any of the other remedies the City has under the CBI Program, the City shall be entitled to withhold periodic payments and final payment due to the {---Vendor Reference Name---} under this Agreement until the City has received in a form satisfactory to the City all claim releases, payment affidavits and other documentation required by the CBI Program. In the event payments are withheld under this provision, the {---Vendor Reference Name---} waives any right to interest that might otherwise be warranted on such withheld amount under North Carolina General Statutes Section 143-134.1.
- 18.6. The remedies set forth in the CBI Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
- 18.7. The {---Vendor Reference Name---} agrees to participate in any dispute resolution process specified by the City from time-to-time for the resolution of disputes arising from the CBI Program.
- 18.8. Nothing in this Section shall be construed to relieve {---Vendor Reference Name---} from any obligation it may have under N.C. Gen. Stat. §143-134.1 regarding the payment of subcontractors.

19. CHARLOTTE BUSINESS INCLUSION MWSBE UTILIZATION AND REPORTING

- 19.1. SUBCONTRACTOR UTILIZATION. {---Vendor Reference Name---} has committed to subcontract for supplies and/or services from City Certified Small Business Enterprises (SBEs), and/or City Registered Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs) for the duration of the Contract, as follows:

Total MBE Utilization	0%
Total WBE Utilization	0%
Total SBE Utilization	0%
Total MWSBE Utilization	0%

{---Vendor Reference Name---} shall not terminate, replace or reduce the work of an MWSBE without providing written notice to the city as outlined in the CBI Policy. Failure of {---Vendor Reference Name---} to fulfill these utilization requirements shall constitute a material breach of this Contract, and shall entitle the City to exercise any of the remedies set forth in the CBI Policy, including but not limited to liquidated damages.

- 19.2. LETTERS OF INTENT. {---Vendor Reference Name---} acknowledges that it will be required to execute one or more letters of intent on or prior to the Effective Date. Each letter of intent will list the subcontractor (MWSBE) vendor name and the amount that {---Vendor Reference Name---} has committed to spend with the subcontractor. The letter(s) of intent will be submitted in such format as the City shall determine. {---Vendor Reference Name---} consents to submit its letter(s) of intent via the City's selected electronic compliance management system, at the City's option. The letter(s) of intent shall be deemed to be incorporated into this Contract when submitted by {---Vendor Reference Name---} and accepted by the City. Any changes to letters of intent or any new letters of intent will also be deemed incorporated into this Contract when submitted by {---Vendor Reference Name---} and accepted by the City.
- 19.3. PAYMENTS TO MWSBES. {---Vendor Reference Name---} shall abide by N.C. Gen. Stat. §143-134.1 (b) and within seven (7) days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Furthermore, if {---Vendor Reference Name---} has made a Quick Pay Commitment under the CBI Program, {---Vendor Reference Name---} shall comply with any provisions of the Quick Pay Commitment that are more stringent than N.C. Gen. Stat. §143-134.1 (b), but shall also remain bound by N.C. Gen. Stat. §143-134.1(b).
- 19.4. PAYMENT REPORTING. As a condition to receiving payments under this contract, {---Vendor Reference Name---} agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the city, detailing the amounts paid by {---Vendor Reference Name---} to all subcontractors and suppliers receiving payment in connection with this contract.

20. GENERAL.

- 20.1. ENTIRE AGREEMENT/AMENDMENT. This Contract is the parties' entire agreement regarding its subject matter. It supersedes all prior agreements, negotiations, representations, and proposals, written or oral. No change order, amendment, or other modification to this Contract will be valid unless in writing and signed by both {---Vendor Reference Name---} and the City. Clicking "consent" or "agree" electronically when accessing software or a website will not constitute a writing sufficient to bind the City.

- 20.2. RELATIONSHIP OF THE PARTIES. The parties' relationship under this Contract is solely that of independent contractors. Nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.
- 20.3. GOVERNING LAW AND VENUE. North Carolina law will govern all matters relating to this Contract (without regard to North Carolina conflicts of law principles). Any legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina, other than actions to enforce a judgment.
- 20.4. ASSIGNMENT/SUBCONTRACTING. {---Vendor Reference Name---} may not assign or subcontract any of its rights or obligations under this Contract without prior written consent of the City. Unauthorized assignments shall be void.
- 20.5. DELAY / CONSEQUENTIAL DAMAGES. The City will not be liable to {---Vendor Reference Name---}, its agents or any subcontractor for or any delay in performance by the City, or for any consequential, indirect, or special damages or lost profits related to this Contract.
- 20.6. SEVERABILITY. The invalidity of one or more provisions of this Contract will not affect the validity of the remaining provisions so long as the material purposes of the Contract can be achieved. If any provision of this Contract is held to be unenforceable, then both parties will be relieved of the unenforceable obligations, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- 20.7. PUBLICITY. {---Vendor Reference Name---} may not identify or reference the City or this Contract in any advertising, sales promotion, or other materials without the City's prior written consent of the City *except*: (i) {---Vendor Reference Name---} may list the City as a reference, and (ii) {---Vendor Reference Name---} may identify the City as a customer in presentations to potential customers.
- 20.8. WAIVER. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Contract shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.
- 20.9. SURVIVAL. Any provision of this Contract that contemplates performance or observance subsequent to termination or expiration of this Contract shall survive termination or expiration and continue in full force and effect for the period so contemplated including, but not limited to, provisions relating to warranties and warranty disclaimers, intellectual property ownership, indemnity, payment terms, and confidentiality.
- 20.10. TAXES. {---Vendor Reference Name---} will pay all applicable federal, state, and local taxes that may be chargeable against the performance of the Services.
- 20.11. CONSTRUCTION OF TERMS. Both parties have carefully considered the particular language used in this Contract. The general rule of law that ambiguities are construed against the drafter will not apply.
- 20.12. DAYS. Unless specifically stated otherwise, all references to days in this Contract refer to calendar days rather than business days. Any references to "business days" shall mean the days that the City's main office at 600 East Fourth Street, Charlotte, NC, is open for the public to transact business.
- 20.13. CONFLICTS OF INTEREST. {---Vendor Reference Name---} will not take any action that is or is likely to be perceived as conflict of interest under this Contract. {---Vendor Reference Name---} has not made and will not make any gifts to City employees or officials in connection with this Contract.
- 20.14. COMPLIANCE WITH LAWS. {---Vendor Reference Name---} and its subcontractors will comply with all local, state, and federal ordinances, statutes, laws, rules, regulations, and standards ("Applicable Law") in performing this Contract.
- {---Vendor Reference Name---} represents and warrants that each deliverable provided under this Contract will comply with all Applicable Law, including without limitation the Americans With Disabilities Act (ADA). {---Vendor Reference Name---} acknowledges that, pursuant to the Americans with Disabilities Act of 1990, 42 USC §§ 12101 et seq. (ADA), programs, services and other activities provided by a public entity, whether directly or through {---Vendor Reference Name---}, must be accessible to individuals with disabilities. {---Vendor Reference Name---} hereby warrants that the Products and/or Services it will provide under this Contract comply with the ADA. {---Vendor Reference Name---} agrees to promptly respond to and resolve any complaint regarding the accessibility of its products or services. {---Vendor Reference Name---} further agrees to indemnify and hold harmless the City from any claims arising out of {---Vendor Reference Name---}'s failure to comply with these ADA Requirements. Failure to comply with these requirements by {---Vendor Reference Name---}, its employees, agents, or assigns, will constitute a material breach of this Contract.

- 20.15. PRE-AUDIT. Notwithstanding anything contained herein to the contrary, the parties acknowledge and agree that no pre-audit certificate is required under N.C. Gen. Stat. §159-28(a) because this Contract imposes no financial obligation on the City that will become due during the City's current fiscal year. The City's fiscal year runs from July 1 to June 30. The current fiscal year is the one in which the Contract is executed.

PRICE SCHEDULE

This Attachment is attached and incorporated into the {---Contract Title---} (the "Contract") between the City of Charlotte and {---Vendor Legal Name---} ("{---Vendor Reference Name---}"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern.

{---Vendor Reference Name---} shall provide the Services detailed in this Contract at rates set forth below.

[Pricing Table to be Inserted]

SCOPE OF SERVICES

This Attachment is attached and incorporated into the {---Contract Title---} (the "Contract") between the City of Charlotte and {---Vendor Legal Name---} ("{---Vendor Reference Name---}"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern.

[FINAL SCOPE TO BE INSERTED]

FEDERAL TRANSIT ADMINISTRATION CONTRACTING TERMS

This Attachment is attached and incorporated into the {---Contract Title---} (the "Contract") between the City of Charlotte and {---Vendor Legal Name---} ("The Company"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract.

1. THE COMPANY SHALL COMPLY WITH ALL FEDERAL REQUIREMENTS.

A. The Company acknowledges and understands that this Contract will be financed at least partially with funding from the federal government. The Company further acknowledges and understands that this Contract is therefore subject to: (1) all applicable federal laws, (2) all applicable federal regulations, (3) all applicable federal policies, (4) the conditions and requirements of all federal grants that in any way will fund any part of the work under this Contract, and (5) the most recent Federal Transit Administration's "Master Agreement," including any certifications or contract provisions that the Master Agreement requires to be included in this Contract. For purposes of these Federal Contracting Requirements, items (1) through (5) in the immediately preceding sentence, as those items may be amended or updated from time to time, are referred to collectively as "Federal Law."

B. All provisions of Federal Law are incorporated into this Contract by reference and are fully binding on the Company as if they were recited here verbatim. The Company shall ensure that all provisions of Federal Law are incorporated into all subcontracts (of every tier) and in all contracts with those supplying any materials, equipment, or other products related in any way to this Contract, such that all subcontractors of every tier and all suppliers are contractually required to comply with all provisions of Federal Law.

C. The Company at all times shall: (1) fully comply with all provisions of Federal Law, (2) ensure that all work under this Contract (including, by example only, all subcontracted work) fully complies with all provisions of Federal Law, and (3) ensure that no aspect of the Company's performance under this Contract would cause the City or any of its officials, employees, or agents to be at any risk of violating any provision of Federal Law. In addition, the Company shall not perform any act, fail to perform any act, or refuse to comply with any City request to the extent that doing any of those things would create any risk of the City or any of its officials, employees, or agents being in violation of any provision of Federal Law.

D. These Federal Contracting Requirements identify and summarize many provisions of Federal Law. However, the Company acknowledges and agrees that the Company is fully and ultimately responsible for identifying and learning about all provisions of Federal Law. If these Federal Contracting Requirements omit any provision or requirement of Federal Law, the Company shall remain fully responsible for identifying and learning about that provision or requirement and for fully satisfying the Company's obligations under Article 1.1.C of these Federal Contracting Requirements with respect to that provision or requirement. The Company shall not be excused from ensuring full compliance with any provision or requirement of Federal Law because that provision or requirement is omitted from these Federal Contracting Requirements, nor shall the Company have any claim or remedy against the City because any such provision or requirement has been so omitted.

E. By executing this Contract, the Company represents to the City and covenants with the City that, as of the date that this Contract takes effect, the Company has fully complied with all provisions of Federal Law and that the Company shall continue to fully comply with all provisions of Federal Law at all times while this Contract is in effect.

F. Notwithstanding any other provision in this Contract, the Company and the City agree that Federal Law and these Federal Contracting Requirements take priority over all other Contract provisions. This means that, if a conflict arises between another Contract provision and any provision of Federal Law or of these Federal Contracting Requirements, such that the Company cannot satisfy both provisions, the Company shall fully comply with the provision of Federal Law or of these Federal Contracting Requirements. In such a situation, the Company shall disregard the other, conflicting Contract provision, but the Company shall do so only to the minimal extent needed to comply fully with Federal Law and with these Federal Contracting Requirements, and the Company otherwise shall fully comply with that conflicting Contract provision to the extent possible.

G. The Company and the City agree that, in any situation where the Company can comply with both another Contract provision and with a provision of Federal Law or of these Federal Contracting Requirements, even if the two provisions address the same subject matter (*e.g.*, if another Contract provision imposes an obligation on the Company beyond those obligations imposed by Federal Law), that will not be deemed a conflict. Rather, in such a situation, the Company shall fully comply with Federal Law, with these Federal Contracting Requirements, and with the other Contract provision.

2. ACCESS TO CONTRACT RECORDS.

A. For purposes of this Article 2 of these Federal Contracting Requirements, "Contract Records" means all documents (whether in hard copy, digital, or other format) that refer or relate to any aspect of this Contract or to the Company's performance under this Contract. By example only (and not for purposes of limitation), Contract Records include all of the following to the extent that they refer or relate to any aspect of this Contract or to the Company's performance under this Contract: subcontracts,

contracts with suppliers and other third parties, invoices and other billing records, audits and other financial and accounting records, memos, letters, and emails.

B. For purposes of this Article 2 of these Federal Contracting Requirements, "Retention End Date" means the later of:

- (a) The third anniversary of the date on which this Contract is terminated or expires, or
- (b) If, on or before that third anniversary, the Company has received notice (from the City or otherwise) of one or more lawsuits, legal proceedings, disputes, audits, or investigations related in any way to this Contract, the date on which the City later notifies the Company in writing that all such lawsuits, legal proceedings, disputes, audits, and investigations have fully and finally concluded. The City and the Company intend for all Contract Records to be retained, maintained, and made available for inspection and copying until all such lawsuits, legal proceedings, disputes, audits, and investigations have fully and finally concluded, even if that requires retaining, maintaining, and making those records available after the third anniversary of this Contract's termination or expiration.

C. Through and including the Retention End Date, (a) the Company shall retain and maintain all Contract Records that the Company ever creates, receives, or otherwise possesses or controls so that those Contract Records are always complete, legible, and readily accessible, (b) as the City may request from time to time, the Company shall promptly make any and all Contract Records available for inspection and copying by the City, by the federal government, and by their respective Companies and agents, and (c) the Company shall comply with all requirements imposed by 2 C.F.R. §200.333.

D. Through and including the Retention End Date, the Company shall ensure that each subcontractor (of every tier) and each supplier providing any material, equipment, or other product shall: (a) retain and maintain all Contract Records that the subcontractor or supplier ever creates, receives, or otherwise possesses or controls so that those Contract Records are always complete, legible, and readily accessible, (b) as the City may request from time to time, promptly make any and all Contract Records in that subcontractor's or that supplier's possession or control available for inspection and copying by the City, by the federal government, and by their respective Companies and agents, and (c) comply with all requirements imposed by 2 C.F.R. §200.333.

E. In addition to taking all other necessary and appropriate steps to satisfy its obligations under Article 2.B(2) of these Federal Contracting Requirements, the Company shall ensure that each subcontract (of every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier retain, maintain, and make available Contract Records as required by Article 2.B(2).

F. This Article 2 will survive this Contract's termination or expiration regardless of how, when, or under what circumstances this Contract is terminated or expires.

3. RESERVED.

4. CIVIL RIGHTS LAWS AND REGULATIONS.

The Company acknowledges that the City must comply with all applicable federal civil rights laws and regulations and with 49 U.S.C. § 5323(h) (3) to the extent that the statute is applicable. The Company acknowledges and agrees that "Federal Law" for purposes of Article 1.1 of these Federal Contracting Requirements includes all applicable federal civil rights laws and regulations, as they may be amended from time to time. Some of those civil rights laws and regulations are identified and summarized below, and the Company acknowledges that its obligations under Article 1.1 of these Federal Contracting Requirements include an obligation to fully comply with the laws and regulations identified below and to ensure that all suppliers and all subcontractors (of every tier) fully comply with those laws and regulations. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 4, the Company shall ensure that each subcontract (of every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 4 and with all applicable federal civil rights laws and regulations. Applicable federal civil rights laws and regulations include, by example only and not for purposes of limitation:

- A. **Nondiscrimination.** 49 U.S.C. § 5332 and its implementing regulations, which prohibit discriminating against any employee or any applicant for employment because of race, color, religion, national origin, sex, disability, or age.
- B. **Race, Color, Religion, National Origin, Sex.** Federal laws and regulations requiring that all job applicants must be employed, and all employees must be treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). For example, a person's race, color, religion, national origin, or sex cannot be considered for purposes of hiring; promotion; demotion or transfer; recruitment or recruitment advertising; layoff or termination; determining rates of pay or other forms of compensation; or selection for training, including apprenticeship. The laws and regulations imposing these requirements include for example Title VII of the Civil Rights Act (42 U.S.C. § 2000e *et seq.*); 49 U.S.C. § 5332 and its implementing regulations; United States Department of Labor regulations ("Office of Federal Contract Compliance

Programs, Equal Employment Opportunity, Department of Labor") found in 41 C.F.R., Chapter 60; and Executive Order No. 11246 ("Equal Employment Opportunity in Federal Employment") dated September 24, 1965 and found at 42 U.S.C. § 2000e.

- C. **Age.** Federal laws and regulations prohibit discriminating against current or prospective employees on the basis of age. These laws and regulations include for example the Age Discrimination in Employment Act (29 U.S.C. §§ 621-634); United States Equal Employment Opportunity Commission (U.S. EEOC) regulations ("Age Discrimination in Employment Act") found in 29 C.F.R. part 1625; the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*); United States Department of Health and Human Services regulations ("Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance") found in 45 C.F.R. part 90; and 49 U.S.C. § 5332 and the regulations implementing that statute.
- D. **Disabilities.** Federal laws and regulations prohibit discriminating against individuals on the basis of disability. These laws and regulations include for example Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*); the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 *et seq.*); and 49 U.S.C. § 5332 and the regulations implementing that statute.
- E. **Access to Services for Persons with Limited English Proficiency.** The Company shall facilitate compliance with, and shall ensure that all suppliers and all subcontractors (of every tier) facilitate compliance with: (1) Executive Order No. 13166 ("Improving Access to Services for Persons with Limited English Proficiency"), found at 42 U.S.C. § 2000d-1 note and (2) applicable provisions of the United States Department of Transportation Notice ("DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons") found at 70 Fed. Reg. 74087 and dated December 14, 2005.
- F. **Environmental Justice.** The Company shall facilitate compliance with, and shall ensure that all suppliers and all subcontractors (of every tier) facilitate compliance with: (1) Executive Order No. 12898 ("Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations") found at 42 U.S.C. § 4321 note and (2) United States Department of Transportation Order 5620.3 ("Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations") found at 62 Fed. Reg. 18377 *et seq.* and dated April 15, 1997.

5. EMPLOYEE PROTECTIONS.

- A. The Company shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5. The Company also shall comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* to the extent that the FLSA applies to employees performing work with federal assistance involving commerce and as the federal government otherwise determines applicable.
- B. The Company shall ensure that every subcontractor (of all tiers) and all suppliers fully comply with the laws and regulations referenced in Article 1.5.A of these Federal Contracting Requirements. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 5.B, the Company shall ensure that each subcontract (of every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 5 and with all with all of the laws and regulations referenced in Article 5.A.

6. ENERGY CONSERVATION.

The Company shall fully comply with the standards and policies related to energy efficiency in the state energy conservation plan issued under the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321, *et seq.* The Company also shall ensure that each supplier and each subcontractor (of every tier) fully complies with those same standards and policies. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 6, the Company shall ensure that each subcontract (at every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 6.

7. GOVERNMENT-WIDE DEBARMENT & SUSPENSION.

- A. The Company shall fully comply with, and shall facilitate the City's compliance with, those United States Department of Transportation regulations entitled "Non-procurement Suspension and Debarment," which are found in 2 C.F.R. part 1200 and which adopt and supplement the United States Office of Management and Budget's "Guidelines to Agencies on Government Wide Debarment and Suspension (Non-procurement)," which are found in 2 C.F.R. part 180. The Company acknowledges that these regulations govern: (1) every contract at any tier under which compensation of \$25,000 or more will be paid, (2) every contract at any tier for a federally required audit (irrespective of the contract amount), and (3) every contract at any tier that must be approved by the FTA (irrespective of the contract amount).
- B. The Company shall ensure that it and all of its officers, principals, affiliates, suppliers, and subcontractors (of every tier) are fully eligible, without limitation, to participate in this federally funded Contract and are not currently declared by any federal department or agency to be:

- a) Debarred from participation in any federally assisted award;
 - b) Suspended from participation in any federally assisted award;
 - c) Proposed for debarment from participation in any federally assisted award;
 - d) Declared ineligible to participate in any federally assisted award;
 - e) Voluntarily excluded from participation in any federally assisted award; or
 - f) Disqualified from participation in any federally assisted Award.
- C. The Company at all times shall fully comply with the regulations in 2 C.F.R. part 180, subpart C, as supplemented by the regulations in 2 C.F.R. part 1200.
- D. The Company shall ensure that, at all times, all suppliers and all subcontractors (of every tier) fully comply with all provisions of this Article 7 to the same extent that the Company is required to do so. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 7.D, the Company shall ensure that each subcontract (at every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 7.
- E. By executing this Contract, the Company certifies to the City that the Company has fully complied as of the date that this Contract takes effect with all provisions in this Article 7 and that the Company shall continue to fully comply with all provisions in this Article 7 at all times while this Contract remains in effect. The Company acknowledges and agrees that the certification provided by the Company under this Article 7.E is a material representation of fact on which the City shall rely. If at any time this certification is found by the City to be false or inaccurate in any way, that shall be deemed a material breach of this Contract by the Company, and in such a situation the City may pursue any and all remedies available to it under this Contract and otherwise at law. Additionally, the Company acknowledges that, if such a breach happens, the federal government also may choose to pursue any and all remedies available to it, including for example seeking the suspension and/or debarment of the Company.

8. NO GOVERNMENT OBLIGATION TO THIRD PARTIES.

- A. The City and the Company acknowledge and agree that the federal government is not a party to this Contract and that the federal government shall not, because of this Contract, have any obligations or liabilities to the City, to the Company, or to anyone else. The City and the Company acknowledge and agree that the first sentence of this paragraph shall not be affected by the federal government concurring in, or approving of, the solicitation or award of this Contract unless the federal government explicitly consents in writing to being a party to this Contract.
- B. The Company shall ensure that each subcontract (of every tier) and each supplier contract includes a provision in which the parties to that subcontract or supplier contract acknowledge and agree that the federal government is not a party to that subcontract or supplier contract and that the federal government shall not, because of that subcontract or supplier contract, have any obligations or liabilities to that subcontract's or supplier contract's parties or to anyone else.

9. PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS & RELATED ACTS.

- A. The Company shall fully comply with all provisions of the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§3801 *et seq.*) and with the United States Department of Transportation regulations entitled "Program Fraud Civil Remedies" that are found in 49 CFR Part 31.
- B. By executing this Contract, the Company certifies to the City the complete truthfulness and total accuracy of every statement that the Company has made, has caused to be made, shall make, or shall cause to be made that relates in any way to this Contract. The Company acknowledges and agrees that the certification provided by the Company under this Article 9.B is a material representation of fact on which the City will rely. If at any time this certification is found by the City to be false or inaccurate in any way, that shall be deemed a material breach of this Contract by the Company, and in such a situation the City may pursue any and all remedies available to it under this Contract and/or otherwise at law. Additionally, the Company acknowledges that, if such a breach happens, the federal government also may choose to pursue any and all remedies available to it, including for example imposing penalties on the Company under the Program Fraud Civil Remedies Act of 1986, 18 U.S.C. §1001, and/or 49 U.S.C. §5307(n)(1).
- C. The Company shall ensure that, at all times, all suppliers and all subcontractors (of every tier) fully comply with all provisions of this Article 9 to the same extent that the Company is required to do so. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 9.C, the Company shall ensure that each subcontract and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 9.

10. RECYCLED PRODUCTS.

- A. When procuring any items designated in Subpart B of 40 C.F.R. Part 247, the Company shall fully comply with all requirements imposed by: (1) the Resource Conservation and Recovery Act (RCRA) §6002, as amended and now found in 42 U.S.C. 6962, (2) 40 CFR Part 247, and (3) Executive Order 12873.

- B. The Company shall ensure that all suppliers and all subcontractors (of every tier) fully comply with the requirements of Article 10.A of these Federal Contracting Requirements to the same extent that the Company is required to do so. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 10.B, the Company shall ensure that each subcontract and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with Article 10.A just as the Company is required to do.

11. SAFE OPERATION OF MOTOR VEHICLES.

- A. The Company shall adopt and promote on-the-job seat belt use policies and programs for its employees and for anyone else who shall operate any vehicles in relation to this Contract, regardless of whether those vehicles are owned or leased by the Company, the City, or another person or entity.
- B. The Company shall adopt and enforce workplace safety policies to minimize crashes caused by distracted drivers. These policies shall include policies that ban and discourage text messaging by anyone operating a vehicle in relation to this Contract, regardless of whether those vehicles are owned or leased by the Company, the City, or another person or entity.

12. FEDERAL CHANGES.

- A. The Company at all times shall fully comply with all applicable FTA regulations, policies, procedures, and directives, including for example those listed or by reference in the FTA Master Agreement, as they may be issued or amended from time to time. Any failure by the Company to do so shall be a material breach of this Contract by the Company.
- B. The Company shall ensure that all suppliers and all subcontractors (of every tier) at all times fully comply with all applicable FTA regulations, policies, procedures, and directives to the same extent that the Company is required to do so. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 12.B, the Company shall ensure that each subcontract (of every tier) and each supplier contract includes provisions requiring that the subcontractor or the supplier fully comply with this Article 12 just as the Company is required to do.

13. INCORPORATION OF FTA TERMS.

- A. The Company and the City acknowledge and agree that the United States Department of Transportation requires certain provisions (the "Applicable FTA Clauses") to be included in this Contract because this Contract is funded at least partially with federal funds. The Applicable FTA Clauses are specified in Federal Law and are also summarized in FTA Circular 4220.1F, as it may be amended or superseded from time to time. The City and the Company have tried to expressly include all Applicable FTA Clauses in these Federal Contracting Requirements or elsewhere in this Contract. However, the City and the Company agree that, if any of the Applicable FTA Clauses have not been expressly included in this Contract, those Applicable FTA Clauses are nonetheless deemed incorporated into this Contract by reference and shall be fully binding on the Company as if they had been expressly included in this Contract.
- B. Notwithstanding any other provision in this Contract, the Company and the City agree that the Applicable FTA Clauses shall take priority over all other Contract provisions. This means that, if a conflict arises between another Contract provision and any provision of the Applicable FTA Clauses, such that the Company cannot satisfy both, the Company shall fully comply with the Applicable FTA Clauses. In such a situation, the Company shall disregard the other, conflicting Contract provision, but the Company shall do so only to the minimal extent needed to comply fully with the Applicable FTA Clauses, and the Company otherwise shall fully comply with that conflicting provision. In contrast, in any situation where the Company can comply with both another Contract provision and with the Applicable FTA Clauses, even if these provisions address the same matter (for example, if another Contract provision imposes an obligation on the Company beyond those imposed by the Applicable FTA Clauses), that will not be deemed a conflict, and in such a situation the Company shall fully comply with the Applicable FTA Clauses and with the other Contract provision.
- C. The Company at all times shall: (1) fully comply with all provisions of the Applicable FTA Clauses, (2) ensure that all of the work under this Contract (including, by example only and not for purposes of limitation, all subcontracted work) fully complies with all provisions of the Applicable FTA Clauses, and (3) ensure that no aspect of the work under this Contract and no aspect of the Company's performance under this Contract would cause the City or any of its officials, employees, or agents to violate any provision of the Applicable FTA Clauses. In addition, the Company shall not perform any act, fail to perform any act, or refuse to comply with any City request to the extent that doing any of those things would create a risk of the City or any of its officials, employees, or agents being in violation of any provision in the Applicable FTA Clauses.
- D. The Company shall ensure that all provisions of the Applicable FTA Clauses (including of any Applicable FTA Clauses not expressly included in this Contract) are incorporated into all subcontracts (of any tier) and in all contracts with those supplying any materials, equipment, or other products such that all subcontractors of every tier and all suppliers are contractually required to comply with all provisions of the Applicable Federal Clauses.

14. FEDERAL ACQUISITION REGULATIONS (F.A.R.) COMPLIANCE.

To the extent that this Contract provides for or allows for any adjustment to the Company's compensation based on costs or expenses incurred by the Company, any such adjustment will be determined based solely on any costs or expenses that: (A) are incurred in full

compliance with all of this Contract's provisions, (B) for which the City is clearly required under this Contract to reimburse the Company, (C) are allowable, allocable, and reasonable, as those terms are defined and used in the Contract Cost Principles of the Federal Acquisition Regulations (F.A.R.) System (found in 48 CFR, Ch.1, Pt.31), including as those principles may be further defined or implemented by regulations or guidance adopted by the federal government, and (D) are otherwise allowed under applicable law.

15. CLEAN AIR.

- A. The Company shall fully comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 U.S.C. §§ 7401, *et. seq.*, as amended). The Company shall promptly notify the City if the Company receives notice of any possible or actual violation (a "Clean Air Act Violation") of the Clean Air Act or of any of those standards, orders, or regulations, and the Company shall provide the City with all information that the Company has about the actual or possible violation. The Company acknowledges and agrees that the City may be required by law to report (or that the City may choose to report, even if not required by law) any actual or possible Clean Air Act Violation to the FTA, to one or more EPA Regional Offices, and/or to other governmental entities, and the Company shall not be entitled to any remedy because the City does so.
- B. The Company shall ensure that all subcontracts (of every tier) and all contracts with those supplying any materials, equipment, or other products include provisions: (1) requiring each subcontractor and each supplier to promptly notify the Company and the City if the subcontractor or supplier receives notice of any possible or actual Clean Air Act Violation and to provide the Company and the City with all information that the subcontractor or supplier has about the actual or possible violation and (2) in which each subcontractor and each supplier acknowledges and agrees that the City may be required by law to report (or that the City may choose to report, even if not required by law) any actual or possible Clean Air Act Violation to the FTA, to one or more EPA Regional Offices, and/or to other governmental entities and that the subcontractor or supplier shall have no claim, right, or remedy against the City or against any City official, employee, or agent because the City does so.

16. CLEAN WATER.

- A. The Company shall fully comply with all applicable standards, orders, and regulations issued under the Water Pollution Control Act (33 U.S.C. §§1251, *et. seq.*, as amended). The Company shall promptly notify the City if the Company receives notice of any possible or actual violation (a "Clean Water Act Violation") of the Water Pollution Control Act or of any of those standards, orders, or regulations, and the Company shall provide the City with all information that the Company has about the actual or possible violation. The Company acknowledges and agrees that the City may be required by law to report (or that the City may choose to report, even if not required by law) any actual or possible Clean Water Act Violation to the FTA, to one or more EPA Regional Offices, and/or to other governmental entities, and the Company shall not be entitled to any remedy because the City does so.
- B. The Company shall ensure that all subcontracts (of any tier) and all contracts with those supplying any materials, equipment, or other products include provisions: (1) requiring each subcontractor and each supplier to promptly notify the Company and the City if the subcontractor or supplier receives notice of any possible or actual Clean Water Act Violation and to provide the Company and the City with all information that the subcontractor or supplier has about the actual or possible violation and (2) in which each subcontractor and each supplier acknowledges and agrees that the City may be required by law to report (or that the City may choose to report, even if not required by law) any actual or possible Clean Water Act Violation to the FTA, to one or more EPA Regional Offices, and/or to other governmental entities and that the subcontractor or supplier shall have no claim, right, or remedy against the City or against any City official, employee, or agent because the City does so.

17. LOBBYING.

- A. The Company shall fully comply with 31 U.S.C. 1352, as amended; with any regulations implementing that statute; and with any non-superseded guidance about that statute issued by the federal government (this statute, those regulations, and that guidance together are the "Byrd Anti-Lobbying Amendment").
- B. The Company shall ensure that each subcontractor (of every tier) and all of those supplying any materials, equipment, or other products fully comply with all requirements imposed by the Byrd Anti-Lobbying Amendment. In addition to taking any other steps necessary and appropriate to satisfy its obligations under this Article 17.B, the Company shall ensure that all subcontracts (of every tier) and all contracts with those supplying any materials, equipment, or other products include provisions requiring each subcontractor and each supplier to fully comply with all requirements imposed by the Byrd Anti-Lobbying Amendment and by this Article 17.
- C. In addition to complying with all other requirements of the Byrd Anti-Lobbying Amendment, in order to comply fully with the Byrd Anti-Lobbying Amendment for purposes of this Article 17, the Company and each subcontractor and supplier must file one or more certifications as required by 49 CFR Part 20 (entitled "New Restrictions on Lobbying").
 - 1. In addition to all other consequences and implications provided by law for filing such a certification, when a subcontractor files one, the subcontractor is deemed to certify to the Company or subcontractor at the tier immediately above it that the certifying subcontractor has not, and shall not, use any federal funds to pay any person, entity, or organization to influence or attempt to influence an officer or employee of any governmental agency, any member of Congress, any officer or

employee of Congress, or any employee of a member of Congress concerning or in connection with any federal contract, federal grant, or any other award covered by the Byrd Anti-Lobbying Amendment.

2. When filing such a certification, the Company and each subcontractor and supplier also shall disclose along with that certification the name of any registrant under the Lobbying Disclosure Act of 1995 who has been paid non-federal funds to make lobbying contacts on the certifier's behalf concerning or in connection with any federal contract, federal grant, or any other award covered by the Byrd Anti-Lobbying Amendment. All of these disclosures shall be made on forms designated by the City. Each subcontractor and supplier shall promptly forward to the Company or subcontractor at the tier immediately above it all such disclosures that the subcontractor or supplier receives from anyone involved in any way in the work under this Contract (*e.g.*, lower-tier subcontractors), and the Company shall promptly provide the City with the Company's own disclosures and with all such disclosures that the Company receives from subcontractors and suppliers.

18. CONTRACT WORK HOURS & SAFETY STANDARDS ACT.

- A. No laborer or mechanic, during any workweek in which he is involved in any way with work under this Contract, may work more than forty (40) hours unless he is paid at least one and one-half times his base pay rate for all hours over forty (40) that he works during that workweek. The obligations imposed by this Article 18.A shall be referred to as the "Overtime Requirements."
- B. The Company shall ensure that the Overtime Requirements are fully satisfied with respect to any individual who performs any part of the work under this Contract, including for example with respect to any such individual who is employed by a subcontractor of any tier.
- C. Any violation of the Overtime Requirements by the Company or by any subcontractor or supplier shall be: (1) a material breach of this Contract by the Company and (2) a material breach by that subcontractor or that supplier of its subcontract or its supplier contract.
 1. If such a breach happens, in addition to all other remedies provided by this Contract or by the law, the Company and any subcontractor or supplier that violated the Overtime Requirements shall be jointly and severally liable to the laborer or mechanic at issue for all wages that were not paid to that laborer or mechanic in accordance with the Overtime Requirements.
 2. If such a breach happens, in addition to all other remedies provided by this Contract or by the law, the Company and any subcontractor or supplier that violated the Overtime Requirements shall be jointly and severally liable to the federal government for liquidated damages. Those liquidated damages shall be computed with respect to each individual laborer or mechanic who was underpaid, including each underpaid watchman and guard, as follows: Ten dollars (\$10.00) for each calendar day that each mechanic or laborer was required or permitted to work more than forty (40) hours during a workweek without being paid in accordance with the Overtime Requirements.
 3. Whether or not the federal government asks or instructs the City to do so, the City may withhold (or may cause to be withheld) from any moneys owed to the Company and/or to any subcontractor or supplier that violated the Overtime Requirements such sums that the City determines may be necessary to satisfy any liabilities of the Company and/or that subcontractor or supplier for the unpaid wages and/or for the liquidated damages contemplated by this Article 18. These sums may be withheld from any moneys owed to the Company and/or to that subcontractor or supplier under: (1) this Contract, (2) any subcontract or supplier contract, and/or (3) any other contract or subcontract, under which the compensation to be paid shall be funded at least partially with federal funds.
- D. The Company shall ensure that the Company, all subcontractors (of every tier), and all suppliers shall: (i) prepare and maintain complete and accurate payroll records that fully comply with this Article 18 and with all industry standard accounting and employment practices and (ii) maintain all of those payroll records and make them available for inspection and copying as required for Contract Records under Article 2 of these Federal Contracting Requirements.
 1. These payroll records must include payroll information for all individuals who perform any of the work under this Contract, including by example for all guards and watchmen who perform any of that work.
 2. These payroll records must contain the following information for each employee: (a) his name and address, (b) his social security number, (c) his employment classifications, (d) the hourly or other rates at which he was paid, (e) the number of hours that he worked each day and each week, (f) detailed information about the deductions made from his pay, and (g) the actual wages paid to him.
- E. The Company shall allow the City, the FTA, the federal Department of Labor, and any of their agents or representatives to interview during working hours any employees or other personnel who have performed, are performing, or are expected to perform any part of the work under this Contract. The Company also shall ensure that all subcontractors (of every tier) and all suppliers allow such interviews to be conducted.

- F. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 18 to ensure that all subcontractors and all suppliers fully comply with this Article 18, the Company shall ensure that all subcontracts (of any tier) for any part of the work under this Contract and all contracts with those supplying any materials, equipment, or other products include provisions requiring each subcontractor and each supplier to fully comply with Article 1.18 of these Federal Contracting Requirements.

19. PROCUREMENT OF RECOVERED MATERIALS.

- A. The Company shall fully comply with Section 6002 of the Solid Waste Disposal Act, as that statute has been amended by the Resource Conservation and Recovery Act and by any other legislation.
- B. In addition to taking all other steps necessary and appropriate to satisfy its obligations under Article 19.A of these Federal Contracting Requirements, the Company shall do all of the following:
 - 1. Ensure that, whenever any material or product is procured for or related to this Contract, and that material or product is listed or identified in those Environmental Protection Agency (EPA) regulations in 40 CFR Part 247, the material or item is procured so that it contains the highest percentage of recovered materials that is practicable while still maintaining a satisfactory level of competition in the procurement process. Except to the extent that Federal Law may otherwise provide, the requirements of this Article 19.B.1 shall apply only where the purchase price of a particular material or product exceeds \$10,000 or where the value of the quantity of that material or product acquired during the preceding fiscal year exceeded \$10,000.
 - 2. Ensure that all solid waste management services used for or in relation to the work under this Contract are procured in a manner that ensures that those services shall maximize energy and resource recovery.
 - 3. Establish an affirmative program for the procurement of recovered materials identified in those Environmental Protection Agency (EPA) regulations in 40 CFR Part 24.
- C. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 19 of these Federal Contracting Requirements, the Company shall ensure that all subcontracts (of every tier) and all contracts with those supplying any materials, equipment, or other products include provisions requiring each subcontractor and each supplier to fully comply with this Article 19 to the same extent that the Company must do so and to facilitate, support, and cooperate in the Company's compliance with this Article 19.

20. DHS SEAL, LOGO, AND FLAGS.

The Company shall not use, and the Company shall ensure that no subcontractor or supplier uses, any Department of Homeland Security ("DHS") seals, logos, crests, or flags, or the likeness of any DHS agency official, without specific, express, and written pre-approval to do so from DHS. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 20 to ensure that all subcontractors and all suppliers fully comply with this Article 20, the Company shall ensure that all subcontracts (of every tier) and all contracts with those supplying any materials, equipment, or other products include provisions requiring each subcontractor and each supplier to fully comply with this Article 20 of these Federal Contracting Requirements.

21. FLY AMERICA.

- A. The Company shall fully comply with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. §40118, as amended) and those United States General Services Administration regulations entitled "Use of U.S. Flag Air Carriers" that are found at 41 C.F.R. §§ 301-10.131 through 301-10.143 (together, this statute and those regulations shall be referred to as the "Air Travel Requirements").
- B. The Company shall ensure that all subcontractors (of every tier) and all suppliers fully comply with the Air Travel Requirements and with this Article 21 of these Federal Contracting Requirements. In addition to taking all other necessary and appropriate steps to satisfy its obligations under this Article 21.B, the Company shall ensure that all subcontracts (of every tier) and all contracts with those supplying any materials, equipment, or other products include provisions requiring each subcontractor and each supplier to fully comply with this Article 21 and with the Air Travel Requirements.
- C. In addition to taking all other steps necessary and appropriate to fully comply with the Air Travel Requirements, the Company and all subcontractors and suppliers shall use only U.S.-flag air carriers for any international air transportation that is used to transport any person or any property for or in relation to this Contract. The requirements of this Article 21.C shall not apply, however, to the extent that any needed air transportation is not provided by any U.S.-flag air carriers.

22. CARGO PREFERENCE.

- A. Whenever shipping any equipment, material, other product, or other commodity needed for or otherwise related to this Contract, the Company shall use privately owned U.S.-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers). This requirement, however, shall apply only to the extent that privately-owned U.S.-flag commercial vessels are available for such shipping at fair and reasonable rates for U.S.- flag commercial vessels.

- B. Within twenty (20) days after the date of loading for a shipment originating within the United States, and within thirty (30) days after the date of loading for a shipment originating outside of the United States, the Company shall provide complete and legible copies of a rated, "on-board" commercial ocean bill-of-lading in English for that shipment to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the City (through the Company in the case of a subcontractor's bill-of-lading).
- C. The Company shall ensure that all subcontractors (of every tier) and all suppliers fully comply with the requirements of Article 23.A and Article 23.B of these Federal Contracting Requirements to the same extent that the Company must comply with them. In addition to taking all other necessary and appropriate steps to satisfy its obligations under.

23. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES.

The Company, by entering into this Contract certifies that, consistent with 2 C.F.R. § 200.216 it will not use "covered telecommunications equipment or services" (as that term is defined in Section 889 of Public Law 115-232) if such equipment or services will be used as a substantial or essential component of any system or as critical technology as part of any system provided under this Contract. The Company will include a requirement not to use such "covered telecommunications equipment or services" in any subcontracts for the provision of "covered telecommunications equipment or services" let under this Contract. "

As used in this clause "Substantial or Essential Component" means any component necessary for the proper function or performance of a piece of equipment, system, or service. "Covered telecommunications equipment or services" as used in this clause, includes but is not limited to:

- A. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- B. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- C. Telecommunications or video surveillance services provided by such entities listed in a) or b) or using such equipment provided by entities listed in a) or b).
- D. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

24. NOTICE OF DISPUTES, BREACHES, DEFAULTS, AND LITIGATION.

If a current or prospective legal matter that may affect the city or the federal government emerges, the company must notify the city. The company must include a similar notification requirement in each of its subcontracts for twenty-five thousand dollars (\$25,000) or more.

- A. Legal disputes that require notification under this provision include, but are not limited to, a major dispute, breach, default, litigation, or naming the city or naming the federal government as a party to litigation or a legal disagreement in any forum for any reason.
- B. Matters that may affect the federal government (and thereby the city) include, but are not limited to, the or the federal government's interests in the award, the accompanying underlying agreement, and any amendments thereto, or the federal government's administration or enforcement of federal laws, regulations, and requirements.
- C. Additional notice to U.S. DOT Inspector General. The Company must promptly notify the U.S. DOT Inspector General in addition to the FTA chief counsel or regional counsel for FTA region 4, if the company has knowledge of potential fraud, waste, or abuse occurring on a project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the false claims act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the project is the subject of this contract, another contract funded by the FTA, or an agreement involving a principal, officer, employee, or agent of the company. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the company. In this paragraph, "promptly" means to refer information without delay and without change.

25. DOMESTIC PREFERENCES FOR PROCUREMENTS.

As appropriate and to the extent consistent with law, the company should, to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the united states (including, but not limited to iron, aluminum, steel, cement, and other manufactured products). For the purposes of this clause, (i) "produced in the united states" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the united states, and (ii) "manufactured products" means items and construction materials composed in whole or in part of non-ferrous materials such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

CONFIDENTIALITY TERMS

This Attachment is incorporated into the Contract for Services ("**Contract**") between the City of Charlotte ("**City**") and {---Vendor Legal Name---} ("**Vendor Reference Name**"). Capitalized terms not defined in this Attachment will have the meanings stated in the Contract.

1. **"CONFIDENTIAL INFORMATION"** means any information, in any medium, whether written, oral, or electronic, obtained or accessed in connection with the Contract that is not subject to mandatory disclosure as a public record under North Carolina law, including without limitation the following:
 - Trade secrets of the City and its suppliers, contractors, and licensors, including software and technical materials.
 - *Information marked "Confidential" or "Proprietary"*
 - *Computer security information of the City, including passwords, codes, configurations, security standards and protocols, and other network, device, and system security features*
 - *Building plans of City-owned buildings and structures*
 - *Plans to prevent or respond to terrorist activity, including vulnerability and risk assessments, potential targets, specific tactics or specific security or emergency procedures, the disclosure of which would jeopardize the safety of government personnel or the general public or the security of any governmental facility, structure, or information storage system(s).*
 - *Information contained in the City's personnel files, as defined by N.C. Gen. Stat. §160A-168 (which includes all information gathered by the City about employees, except information which is a matter of public record under North Carolina law)*
 - *Personal identifying information of individuals, such as social security numbers, bank account numbers, credit and debit card numbers, birth dates, PIN numbers and passwords*
 - *Billing information of customers maintained in connection with the City providing utility services*
 - *Attorney / client privileged information disclosed by either party*
 - *Names and address of individuals who have received a rehabilitation grant to repair their homes.*
 - *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City*

The Confidential Information listed in italics above is "Highly Restricted Information," which subject to additional restrictions as set forth herein. Confidential Information includes information disclosed prior to execution of this Contract as well as information disclosed after execution.

2. **RESTRICTIONS.**

- 2.1. {---Vendor Reference Name---} shall not copy, modify, enhance, compile, or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the City in writing.
- 2.2. {---Vendor Reference Name---} shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an agent, subcontractor or vendor of the City or {---Vendor Reference Name---} having a need to know such Confidential Information for purpose of performing work contemplated by written contracts between the City and {---Vendor Reference Name---}, and who has executed a confidentiality agreement containing substantially the same protections set forth herein. Notwithstanding the forgoing, {---Vendor Reference Name---} shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted of the other to any third party without the City's prior written consent
- 2.3. {---Vendor Reference Name---} shall not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized in writing by the City, or is for the purpose for which such Confidential Information is being disclosed.
- 2.4. {---Vendor Reference Name---} shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- 2.5. {---Vendor Reference Name---} shall use reasonable efforts to prohibit its employees, vendors, agents, and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
- 2.6. If any demand is made in litigation, arbitration, or any other proceeding for disclosure of Confidential Information, {---Vendor Reference Name---} shall immediately notify the City, and will reasonably assist the City's effort to seek a protective order or other appropriate relief to prevent or restrict any disclosure of Confidential Information.
- 2.7. {---Vendor Reference Name---} will restrict employee access to the Confidential Information to those employees who need to know in order to: (a) fulfill {---Vendor Reference Name---}'s contractual obligations to the City, or (b) resolve a

- dispute with the City. {---Vendor Reference Name---} will have each employee who will have access to the Confidential Information sign a confidentiality agreement including protections substantially identical to those set forth herein.
- 2.8. {---Vendor Reference Name---} shall comply with the City's Restricted Data Policy, a copy of which is posted on the City's website, and with any instructions or procedures issued by the City from time to time regarding Highly Restricted Information.
- 2.9. {---Vendor Reference Name---} shall ensure that each person who obtains access to Confidential Information through {---Vendor Reference Name---} (including but not limited to {---Vendor Reference Name---}'s employees and subcontractors) has undergone training sufficient to understand his or her responsibilities with respect to this Contract and the City's Restricted Data Policy.
- 2.10. All materials containing Confidential Information shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
3. **EXCEPTIONS.** {---Vendor Reference Name---} shall have no obligation with respect to Confidential Information that {---Vendor Reference Name---} can establish:
- Was already known to {---Vendor Reference Name---} prior to being disclosed by the City;
 - Was or becomes publicly known through no wrongful act of {---Vendor Reference Name---};
 - Was rightfully obtained by {---Vendor Reference Name---} from a third party without similar restriction and without breach hereof;
 - Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, {---Vendor Reference Name---} shall first give to the City notice of such requirement or request;
 - Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that {---Vendor Reference Name---} shall immediately notify the City prior to disclosure, and reasonably assist the City in seeking a protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.