



Request for Proposals # 274-WQdata-2025

Title: Surface Water Quality Data Management

Issue Date: March 21, 2025

Due Date: April 4, 2025, no later than 5:00PM EST

LATE PROPOSALS WILL NOT BE ACCEPTED

Issuing Department: Engineering Services

Direct all inquiries concerning this RFP to:

Kimberly Galutia

Senior Engineering Specialist

Email: Kimberly.Galutia@raleighnc.gov

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1 INTRODUCTION

1.1 Purpose

The City of Raleigh (COR) is soliciting proposals from one or more firm(s) with which to contract for the following services:

The services will provide Raleigh Stormwater's Water Quality program with a data management system to efficiently manage its water quality monitoring data. This system should enable seamless data transfer, ensure secure data storage and recovery, automate quality control processes, and track essential metrics. Additionally, it should allow users to generate data visualizations and reports with standardized templates.

A detailed scope of services is provided in Section 4 of this document.

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

All questions related to this solicitation must be submitted in writing (via email) to the following individual:

| Contact Name | Email Address |
|------------------|--------------------------------|
| Kimberly Galutia | Kimberly.Galutia@raleighnc.gov |

Questions submitted via telephone will not be answered.

1.2 Background

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

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

The City of Raleigh's Water Quality Section monitors surface water quality at monitoring locations throughout Raleigh's 640 miles of streams. Staff collect quarterly surface water quality grab samples and in situ sonde measurements at 18 fixed monitoring sites for 17

parameters. Grab samples are analyzed by a State-certified lab (City of Raleigh laboratory), and raw data are provided to Water Quality staff. The ambient program began in the fall of 2008. Following protocols established by the North Carolina Department of Environmental Quality, staff conduct annual benthic macroinvertebrate (aquatic insect) sampling at 22 stream sites. Benthic samples are analyzed by a contractor to identify species and determine North Carolina Biotic Index (BI). Benthic data have been collected annually since 1999. Visual stream habitat surveys are conducted at 22 sites; data include photos and quantitative data. Staff maintain one (1) pilot continuous monitoring station which collects high-frequency data (pH, conductivity, temperature, turbidity, and dissolved oxygen) at 15-minute intervals. The pilot program was established in 2023.

The City’s current data management consists of hosting data on SharePoint, ArcGIS Online, and HydroSphere. SharePoint data are organized in spreadsheet with master Excel files for both quarterly ambient sampling and benthic data. Raw data and lab reports are stored in project folders on SharePoint. Field data for the quarterly ambient sampling and benthic monitoring program are stored in respective ArcGIS databases. HydroSphere hosts the pilot continuous monitoring data.

To support its data management goals, the Water Quality Section is seeking a contractor and system to manage its water quality data. These data include ambient, benthic, stream habitat, and pilot continuous monitoring datasets. The system should have the capability to integrate data from external sources, such as USGS stream gauge (rainfall, stage, discharge) data or State-collected data.

The goal of this RFP is to solicit services for a data management system that enables City staff to securely store, manage, visualize, and analyze its water quality data and relevant external data in a central location. A responsive proposal should provide staff with the ability to analyze water quality status and trends, support NPDES permit compliance, and inform future Water Quality initiatives.

1.3 Request for Proposal (RFP) Timeline

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

| RFP Process | Date and Time |
|--|-----------------------|
| RFP Advertisement Date | <i>March 21, 2025</i> |
| Pre-Proposal Conference (if required) | N/A |
| Deadline for Written Questions | <i>March 28, 2025</i> |
| City Response to Questions (anticipated) | <i>April 2, 2025</i> |
| Proposal Due Date and Time | <i>April 4, 2025</i> |

| | |
|----------------------------------|----------------|
| Evaluation Meeting (anticipated) | April 11, 2025 |
| Interviews (if required) | April 18, 2025 |
| Selection Announced (tentative) | April 24, 2025 |

1.4 Pre-Proposal Conference

If the City of Raleigh elects to conduct a Pre-Proposal Conference or Site Visit, attendance by prospective proposers is strongly encouraged but is not mandatory. Prospective Proposers are encouraged to submit written questions in advance. Date, time, and location of pre-proposal conference is shown above in the RFP Timeline (Section 1.3).

1.5 Proposal Questions

Requests for clarification and questions to this RFP must be received by the City not later than the date shown above in the RFP Timeline (Section 1.3) for the submittal of written inquires. The firm’s failure to request clarification and submit questions by the date in the RFP Timeline above shall be considered to constitute the firm’s acceptance of all City’s terms and conditions and requirements. The City shall issue addenda reflecting questions and answers to this RFP, if any, and shall be posted to North Carolina electronic Vendor Portal ([eVP](#)). No information, instruction or advice provided orally or informally by any City personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Respondents shall be entitled to rely *only* on written material contained in an Addendum to this RFP.

It is important that all Respondents submitting to this RFP periodically check [eVP](#) for any Addenda. It is the Respondents responsibility to ensure that all addenda have been reviewed and, if required signed and returned.

All questions related to this solicitation must be submitted in writing (via email) to the following individual:

| Contact Name | Email Address |
|------------------|--------------------------------|
| Kimberly Galutia | Kimberly.Galutia@raleighnc.gov |

Questions submitted via telephone will not be answered.

1.6 Proposal Submission Requirements and Contact Information Submittal Requirements and Contact Information

Proposals must follow the format as defined in Section 2 Qualifications Package. The City will equally accept either electronic responses or hard copy responses, as most efficient for the responding firm. The City will not require both electronic and hard copy responses.

If the Proposer chooses to submit their qualifications-based proposals electronically, then there are several options available for firms to submit their proposals electronically:

1. Submit the proposal as a viewable and printable Portable Document File (PDF) secure attachment to email to Kimberly.galutia@raleighnc.gov. For practical purposes, please consider that an email with attached file size of up to 20 Mb can be received by the City.

2. If the electronic file size of the proposal document is potentially too large to send via email as an attachment, and the file size cannot be successfully compressed in size or otherwise be emailed successfully, then the firm may choose to send an email to Kimberly.Galutia@raleighnc.gov with a secure file transfer link such that the recipient (City of Raleigh RFP contact only) can download the file. Firms are in no way required to have or obtain such file transfer system, however. Moreover, the City will not be providing any type of file-sharing site to use for the submittal of packages in response to this RFP. Also, physical media storage devices with electronic files will not be required or accepted by the City for this RFP.

3. If preferred, firms may continue to elect to submit hard copy responses (signed original plus five copies) per the mailing address information provided below. Hard copy submittals must be enclosed in a sealed envelope or package and clearly marked with the name of the submitting company, the RFQ number and the RFQ Title. Proposers must submit one (1) signed original and five (3) copies of the signed proposal.

| <u>DELIVERED BY US POSTAL SERVICE</u> <u>MAIL:</u> | <u>DELIVERED BY OTHER DEIVERY</u> <u>SERVICES:</u> |
|---|---|
| City of Raleigh Engineering Services Department, Stormwater Management Division ATTN: Kimberly Galutia 1 Exchange Plaza, 7th Floor (RM 706) Raleigh, NC 27601 RFP No. 274-WQdata-2025 | City of Raleigh Engineering Services Department, Stormwater Management Division ATTN: Kimberly Galutia 1 Exchange Plaza, 7th Floor (RM 706) Raleigh, NC 27601 RFP No. 274-WQdata-2025 |

The electronic version of the Proposal must be submitted as a viewable and printable Adobe Portable Document File (PDF). Both hard copy and electronic versions must be received by the City on or before the RFP due date and time provided in RFP Timeline (Section 1.3). Proposals received after the RFP due date and time will not be considered and will be returned unopened to the return address on the submission envelope or package.

Any requirements in the RFP that cannot be met must be indicated on Appendix VI: Exceptions to the RFP and submitted with the proposal. **Proposers must respond to the entire Request for Proposals (RFP). Any incomplete proposal may be eliminated from competition at the discretion of the City of Raleigh.** The City

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

Proposals that arrive after the due date and time will not be accepted or considered for any reason whatsoever. If the firm elects to mail in its response, the firm must allow sufficient time to ensure the City's proper receipt of the package by the time specified in the RFP Timeline (Section 1.3). Regardless of the delivery method, it is the responsibility of the firm to ensure that their proposal arrives at the designated location specified in this Section by the due date and time specified in the RFP Timeline (Section 1.3).

1.7 MWBE Participation Form

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

Complete and submit the MWBE Participation Form (Appendix IV) with your proposal.

1.8 Rights to Submitted Material

All proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. The content of all submittals will be held confidential until the selection of the firm is made. Proposals will be reviewed by the Evaluation Team, as well as other City staff and members of the general public who submit public record requests. ***Any proprietary data must be clearly marked.*** In submitting a Proposal, each Prospective Proposer agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process and to any outside consultant or other third party who serves on the Evaluation Team or who is hired by the City to assist in the selection process.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the proposer of the conditions contained in this Request for Proposals. Proposals marked entirely as "confidential", "proprietary", or "trade secret" will be considered non-responsive and will be removed from the evaluation process.

1.9 Communications

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

1.10 Lobbying

By responding to this solicitation, the firm certifies that it has not and will not pay any person or firm to influence or attempt to influence an officer or employee of the City or the

State of North Carolina, or any elected official in connection with obtaining a contract as a result of this RFP.

1.11 Conflicts of Interest

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

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

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

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

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

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

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

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

1.12 Proposer Expenses

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

1.13 Proposer Acceptance

Submission of any proposal indicates a Proposer's acceptance of the conditions contained in this RFP unless clearly and specifically noted otherwise on Appendix VI Exceptions to RFP and submitted with proposal. Furthermore, the City of Raleigh is not bound to accept a proposal on the basis of lowest price, and further, the City of Raleigh has the sole discretion and reserves the right to cancel this RFP, and to reject any and all proposals, to waive any and all informalities and/or irregularities and reserves the right to re-advertise this RFP with either the identical or revised scope and specifications if it is deemed to be in the best interests of the City of Raleigh to do so. The City of Raleigh reserves the right to accept or reject any or all of the items in the proposal, and to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the best interest of the City of Raleigh to do so. Moreover, the City of Raleigh reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or not in the best interest of the City of Raleigh.

2 PROPOSALS

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

2.1 Request for Proposals Required Document Format

Responses should be divided using tabs to separate each section, listed sequentially as follows:

Tab 1: Cover Letter

Provide an introduction letter summarizing the unique proposal of your firm to meet the needs of this service requirement. This letter should be presented on the firm's official letterhead and signed by an authorized representative who has the authority to enter into a contract with the City on behalf of the firm. Additionally, include the name, address,

telephone and email address of the individual who serves as the point of contact for this solicitation.

Tab 2: Corporate Background and Experience

Include background information on the firm and provide detailed information regarding the firm's experience with similar projects. Provide a list of all similar contracts performed in the past two (2) of years, accompanied by at least two (2) references (contact persons, firm, telephone number and email address).

Include the total amount invoiced for each listed project, the length of the project, and list of those involved in the project who are also proposed for the subject project named in this solicitation. Failure to provide a list of all similar contracts in the specified period may result in the rejection of the firm's proposal. The evaluation team reserves the right to contact any or all listed references, and to contact other public entities regarding past performance on similar projects.

Tab 3: Financial Information

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

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

OR

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

OR

3. Include a certified, signed statement from a licensed CPA regularly engaged in the review of the firm's financial information verifying the financial viability of the firm.

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

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

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

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

Tab 4: Project Understanding, Approach and Schedule

Provide a comprehensive narrative, outline, and/or graph demonstrating the firm's understanding and approach to accomplishing the tasks outlined in the Scope of Work section of this RFP. A description of each task and deliverable and the schedule for accomplishing each shall be included.

Proposers shall describe/demonstrate how their system manages water quality, benthic, pilot continuous monitoring and integrates external data. In a narrative, outline, and/or graph, proposers shall demonstrate how their system detects data anomalies, performs QA/QC functions, and analyzes water quality constituents, such as dissolved oxygen, nutrients, and turbidity, for status and trend. In the outline, it is strongly encouraged to provide an example graph or other data visualization. Proposers shall demonstrate how benthic data (i.e. species lists, tolerance values, EPT species, and Biotic Index (BI) values and scores) are stored, displayed, and analyzed. If possible, demonstrate/model relationships between streamflow characteristics, such as discharge and stage, and the impact on water quality constituents (TSS, turbidity, conductivity, water temperature, total phosphorus, etc.). Additionally responsive proposals will exhibit an understanding of how pollution affects surface water quality and benthic communities.

The City will provide selected Water Quality datasets, including sample ambient, continuous monitoring, and benthic to all proposers upon request. This provision aims to facilitate the proposer comprehension of the project scope.

Proposer must submit a request to Kimberly Galutia at Kimberly.Galutia@raleighnc.gov to obtain a subset of the City's water quality data.

Tab 5: Team Firm, Experience and Certifications

This section must include the proposed staffing, deployment firm of personnel to be assigned to this project, and the City of Raleigh cybersecurity form (completed). The Proposer shall provide information as to the Proposals and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person. A project-specific firm chart which clearly illustrates the roles, responsibilities, and the reporting relationships of each team member should be included.

To access the **required** City of Raleigh cybersecurity form, please submit a request to Kimberly Galutia at Kimberly.galutia@raleighnc.gov.

Tab 6: Cost

Provide a cost schedule as part of the proposal. Hourly rates shall be fully burdened to include all costs, all applicable overhead and profit (including lodging, meals, and transportation). Attach any additional pricing details.

2.2 RFP Documents

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

3 PROPOSAL EVALUATION

3.1 Proposal Evaluation Criteria (Stage 1)

This is not a bid. There will not be a public opening. The Proposals received in response to this RFP will be evaluated and ranked, by the Proposal Evaluation Committee in accordance with the process and evaluation criteria contained below. Responses will be evaluated in light of the material and substantiating evidence presented in the response, and not on the basis of what is inferred. After thoroughly reading and reviewing this RFP, each Evaluation committee member shall conduct his or her independent evaluation of the proposals received and grade the responses on their merit in accordance with the evaluation criteria set forth in the following table.

The maximum interview/demonstration points a Proposer can receive is five (5) points. The Proposers selected for interviews/demonstrations under this section will be notified in writing of the date and time. The Proposers' interview/demonstrations shall be based solely upon information provided in each Proposer's original proposal. No new information may be presented.

| Criteria | (a) Weight | (b) Score (0-3) | (a) x (b) Weighted Score |
|---|---------------|--------------------|--------------------------------|
| Corporate Background and Experience | 15 | | |
| Firm Financial Stability | 15 | | |
| Project Understanding | 20 | | |
| Project Approach | 25 | | |
| Team Firm Experience | 15 | | |
| Proposed Cost | 10 | | |
| Total Score (without Interview/Demonstrations) | | | |
| Interview/Demonstration (if applicable) | 5 | | |
| Final Score (with Interview/Demonstrations) | | | |

Score Points

0- Missing or Does Not Meet

Expectation

1- Partially Meets Expectation

2- Meets Expectation

3- Exceeds Expectation

Cost Formula: The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the following formula:

$$1 - \frac{B - A}{A} \times C = D$$

A—the lowest Proposer’s cost.

B—the Proposer’s cost being scored.

C—the maximum number of cost points available.

D—Proposer’s cost score (points).

Note: If the formula results in a negative number (which will occur when the Offeror’s cost is more than twice the lowest cost), zero points shall be assigned.

3.2 Interview/Demonstration (Stage 2)

A short-list of firms may be invited to Stage 2 of the evaluation process, the *Interview/Demonstration*. Interview/demonstrations are an important aspect of the evaluation process that offers the City an opportunity to see how the proposer’s solution meets the critical components of the RFP.

3.3 Final Selection

Proposals will be evaluated and ranked according to the criteria and weighted values set forth in Section 3.1. Either a final selection for recommendation will be made at this time or the short-list of firms will be invited to participate in Stage 2 of the evaluation process.

If Stage 2 is implemented, each firm will be evaluated and assigned a score to determine the best firm for recommendation.

After which negotiations of a contract with the most qualified firm will commence. If negotiations are unsuccessful, the City will then pursue negotiations with the next most qualified firm. All Proposers will be notified of their standing immediately following the City's decision.

The City shall not be bound or in any way obligated until both parties have executed a contract. The City also reserves the right to delay the award of a contract or to not award a contract.

3.4 Notice to Proposers Regarding RFP Terms and Conditions

It shall be the Proposer's responsibility to read the Instructions, the City's Standard Contract Terms and Conditions (Appendix V), all relevant exhibits, attachments, and any other components made a part of this RFP and comply with all requirements and specifications herein. Proposers are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

3.5 Contract Term

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

4 SCOPE OF SERVICES

Awarded Contractor shall provide services, all as set forth in this RFP and more particularly described in this Section 4.

The Contractor shall perform for the City the following described services:

1. Online System Setup & Customization

Design & Branding: Develop a customized web interface or dashboard reflecting client and City branding and design specifications.

Program Configuration: Implement features, including data mapping, statistics, notifications, and security for the system.

User Roles: Define access levels for administrators, participants, and view-only users.

Onboarding & Orientation: Provide City staff with comprehensive training and written guidance documents on system interface and program management, to include at minimum eight (8) meetings with a technical representative present to preview data, discuss data migration, determine needs for report and data visualization generation, etc.

Program Database Setup: Securely host the City's data in the cloud with provisions for City ownership of all data stored. The proposer/system must securely back up all data at least once every 24 hours to ensure continuity in the event of an unexpected incident or major outage. Upon contract termination, the City retains the right to the ownership its data and as such the data must be transferable back to the City.

Data: Migrate historical data to a water quality database. Provide instructions for future data upload to the database with consideration of consistent data formatting.

Customizations: Develop features to enhance program efficiency: automating report generation, seamless data integration from external sources, and generation of data visualizations.

Support: Provide customer service support throughout system setup.

Training: Provide specific training on managing analyzing pilot continuous water quality data focusing on manual and automated methods for uploading, QA/QCing, and applying data corrections.

2. Data Management:

Notifications: The proposer/system will establish threshold values to identify data anomalies or exceedances and method for flagging data and sending notifications to City staff.

Technical Oversight & Quality Control: Allow City staff to perform QA/QC checks throughout the application, installation, and completion phases.

Reporting: Ensure the system has the capability to generate standardized, real-time reports for compliance across programs.

3. Security & Compliance

Data Security: Ensure the system meets City security standards, including encryption, regular audits, and data protection measures. Initial and regular coordination with City IT staff is required.

Fraud Detection: Integrate monitoring systems or processes to detect for irregular activity or misuse.

Compliance: Adhere to legal regulations, including GDPR, CCPA, and other relevant data privacy laws.

4. Technical Support & Maintenance

Ongoing Support: Provide access to training and customer support to meet program needs throughout duration of the project.

System Maintenance: Regular updates, security patches, and feature enhancements as required.

5. Reporting & Analytics

Dashboard: Provide a user-friendly dashboard or other user interface to view real-time insights into water quality status.

Report Customization: The system should have the capability to generate custom reports following a standard template(s).

Advanced Analytics: The system might include predictive modeling or insights for optimizing program strategies. Predictive insights may include artificial intelligence (AI) integration or other tools.

APPENDIX I

PROPOSAL COST FORM

Awarded Contractor shall perform the services to be performed as set forth in this RFP and more particularly described in Section 4 for a not to exceed total amount of

\$_____.

Proposer shall attach proposal cost breakdown to this Appendix I Proposal Cost Form.

Firm Name: _____

Authorized Signature _____ Date _____

Signed by: _____
[Type or Print Name]

Title of Signer: _____

APPENDIX II PROPOSER QUESTIONNAIRE

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

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

APPENDIX III
REFERENCE QUESTIONNAIRE
(Instructions)

274-WQdata-2025 Surface Water Quality Data Management

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

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

APPENDIX III

REFERENCE QUESTIONNAIRE FORM

274-WQdata-2025 Water Quality Data Management

(Name of Business Requesting Reference)

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

This form is to be returned to the City of Raleigh, **Kimberly Galutia**, via email to **Kimberly.Galutia@raleighnc.gov** no later than **5:00 p.m. EST, April 4, 2025**, and **MUST NOT** be returned to the company requesting the reference.

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

Company Providing Reference

Contact Name and Title/Position

Contact Telephone Number

Contact Email Address

Questions:

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

Comments:

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

3= Excellent

2= Satisfactory

1= Unsatisfactory

0= Unacceptable

Comments:

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

3= Excellent

2= Satisfactory

1= Unsatisfactory

0= Unacceptable

Comments:

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

Comments:

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

Comments:

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

| | |
|-------------|---------------|
| Name: _____ | Rating: _____ |
| Name: _____ | Rating: _____ |
| Name: _____ | Rating: _____ |
| Name: _____ | Rating: _____ |

Comments:

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

Comments:

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

Comments:

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

Comments:

APPENDIX V

City of Raleigh Software as a Service Agreement

This SOFTWARE AS A SERVICE AGREEMENT ("Agreement") is entered into between (*insert contractor name*) (hereinafter, "Contractor"), and the City of Raleigh, a North Carolina municipal corporation, (hereinafter, the "City"). This Agreement is effective as of the date of the City's signature below ("Effective Date").

RECITAL

WHEREAS, the City desires to procure an independent contractor to provide certain software and attendant support, defined as "Services" below;

WHEREAS, Contractor is in the business of providing the Services desired by the City;

WHEREAS, the City desires Contractor to provide the Services as described and defined below, and Contractor has agreed to provide the City with Services as described and defined below, and in accordance with the terms and conditions set forth herein.

WHEREAS, the City has completed all necessary steps for retention of professional and other services under applicable City policies;

TERMS

NOW THEREFORE, in consideration of sums to be paid by the City to Contractor and other good and valuable consideration, the parties agree as follows:

1. SERVICES

Contractor hereby grants to the City a nonexclusive license to access and use (*insert item name*) or users of Contractor's software titled (*insert software name*) (the "Software"). Contractor's provision and licensing of the Software under this Agreement and the scope of work shall be referred to as the "Services."

2. TERM

The term of this Agreement shall begin on (*Insert Date*), and go through and including (*Insert Date*), unless earlier terminated by the parties ("Term").

3. COMPENSATION / TIME OF PAYMENT

The total amount payable to Contractor by the City under this Agreement shall not exceed \$(*insert amount*) unless changed by a duly authorized Amendment.

The standard City of Raleigh payment term is NET 30 days from the date of invoice. For prompt payment you may email all invoices to (accountspayable@raleighnc.gov) or mail all invoices to the City of Raleigh, Accounts Payable, PO Box 590, Raleigh, North Carolina

27602-0590. All invoices must include the following Purchase Order Number (insert number). Invoices submitted without the correct purchase order number will result in delayed payment.

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

4. QUALITY OF SERVICES

The Software provided under this Agreement shall be furnished in a polished, stable, and “general availability” format, to the reasonable satisfaction of the City, and shall conform to all prevailing industry and professional standards. Contractor shall assure that all Support, if any is performed by appropriately qualified and licensed personnel, eligible to work in the United States, who shall exercise the degree of skill and knowledge normally possessed by members of their profession in good standing in the community. The parties acknowledge and agree that time is of the essence with respect to Contractor’s performance of the Services under this Agreement and that Contractor’s prompt and timely performance hereunder is strictly required.

5. TERMINATION

- 5.1 **Termination for Convenience.** The City may terminate this Agreement at any time by providing thirty (30) days written notice to the Contractor (“Termination for Convenience”). In the event of a Termination for Convenience, all fees already paid by the City during the current Initial or Renewal Term shall be non-refundable and are forfeited. Contractor shall be entitled to receive just and equitable compensation for the Services provided to the City as of the date of termination. Notwithstanding the foregoing, in no event will the total amount due to Contractor under this section exceed the total amount due Contractor under this Agreement (or any subsequent Amendments).
- 5.2 **Termination for Cause.** If Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement for any reason, including the voluntary or involuntary declaration of bankruptcy, the City shall have the right to terminate this Agreement by giving written notice to the Contractor, in which case termination will be effective upon receipt of the notice by Contractor (“Termination for Cause”). Contractor shall cease performance immediately upon receipt of such notice. In the event of a Termination for Cause all previously paid fees will be refunded to the City on a pro-rata basis. The pro-rated refund will be provided starting from the date Contractor receives notice of the City’s Termination for Cause. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement, and the City may withhold any payment due to the Contractor for the purpose of setoff until such time as the City can determine the exact amount of damages due the City because of the breach.

6. INDEMNIFICATION

Except to the extent caused by the sole negligence or willful misconduct of the City, the Contractor shall indemnify, defend, and hold harmless the City, including its officers, agents, and employees, from liability of any kind, including all claims, costs (including defense), and

losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, costs (including defense) and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Agreement. This representation and warranty shall survive the termination or expiration of this Agreement.

The Contractor shall indemnify, defend, and hold harmless the City, its officers, agents and employees from liability of any kind, including claims, costs (including defense) and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device, or appliance manufactured or used in the performance of this Agreement.

7. INSURANCE

- 7.1 **Additional Insured.** Contractor agrees to endorse the City as an additional insured on the Commercial General Liability Policies, Auto Liability Policies, and Umbrella Liability Policies if being used to meet the standard of the General Liability and Automobile Liability. **The Additional Insured shall read as follows: “City of Raleigh is named additional insured as their interest may appear.”**
- 7.2 **Certificate of Insurance.** Contractor shall provide to the City a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify duty by Contractor’s insurer, when available. If Contractor receives a non- renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non- renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. **The Certificate Holder address should read: City of Raleigh, Post Office Box 590, Raleigh, NC 27602-0590**
- 7.3 **Minimum Coverage Requirements.** Contractor agrees to maintain at all times during the life of this Agreement, on a primary basis and at its sole expense, the following coverages and limits. The requirements contained herein, as well as City’s review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Agreement. All insurance companies must be authorized to do business in North Carolina and be acceptable to the City of Raleigh’s Risk Manager.
- a. Commercial General Liability – Combined single limit of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability, or Cross Liability.
 - b. Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned, and Hired automobiles. In the event that Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or

separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of Services under this Agreement or are brought on City property.

- c. Cyber Liability Insurance – Including first-party and third-party coverage, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for all claims each policy year. The policy maintained to satisfy this provision shall not contain terms limiting or excluding coverage for ransomware, malware, intellectual property, or data breach claims.
- d. Worker’s Compensation & Employer’s Liability – Contractor agrees to maintain Worker’s Compensation Insurance in accordance with North Carolina General Statute Chapter 97 with statutory limits and employer’s liability of no less than \$1,000,000 per occurrence.
- e. Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy, provided that if the Umbrella or Excess Liability policy is being used to satisfy the Cyber Liability policy requirement above, then said policy shall not contain terms limiting or excluding coverage for ransomware, malware, intellectual property, or data breach claims. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest ‘Per Occurrence’ limit for required policies. Contractor agrees to endorse City of Raleigh as an ‘Additional Insured’ on the Umbrella or Excess Liability unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a ‘Follow- Form’ basis.
- f. Professional Liability – Limits of no less than \$1,000,000 for each claim and \$3,000,000 aggregate coverage limit. A Professional Liability policy is only required if Support is being provided as part of the Services under this Agreement.

8. SOFTWARE AND TECHNOLOGY

- 8.1 **City Data; Contractor’s Security.** “City Data” means (a) any information, documents, data, instruments, records, or reports created or possessed by the City and provided to Contractor, (b) information or data provided to Contractor from the City’s residents, customers, employees, agents, or other contractors by virtue of this Agreement, and (c) any information or data derived from the processing, storage, or analysis of any other City Data. As is necessary to comply with Section 9.25 below, City Data does not include this Agreement or any internal information, documents, data, instruments, records, or reports created by and originating solely with Contractor that, while pertaining to this Agreement, do not otherwise contain City Data as defined above. City Data shall remain the exclusive property of the City, and the City retains the right, title, and interest in all City Data unless specifically relinquished in writing. “Authorized Persons” means City employees or agents, Contractor’s employees who are currently engaged in the provision of Services under this Agreement, and Contractor’s subcontractors who comply with Section 8.1.1 below.

8.1.1 Permissible Use of City Data. Contractor may use any City Data in its possession only as is necessary to provide the Services under this Agreement or to comply with any applicable law or court order. Contractor shall otherwise prevent the access, copying, or use of City Data in Contractor's possession by any third-party, Contractor's other customers, or Contractor's subcontractors, provided that Contractor may disclose City Data to Contractor's subcontractors as is necessary to provide the Services under this Agreement only if (i) Contractor's contract with such subcontractor contains terms reasonably consistent with Section 8.1.2 below, and (ii) such subcontractor has acknowledged in writing, either independently or in its contract with Contractor, that the City Data shall remain the exclusive property of the City.

8.1.2 Security. Contractor will: use precautions, including but not limited to physical, software, and network security measures, employee screening, training, and supervision, and appropriate agreements with employees, to prevent anyone other than authorized City employees or designees from monitoring, using, or gaining access to City Data; protect appropriate copies of City Data from loss, corruption, or unauthorized alteration; and prevent the disclosure of City passwords and other access control information to anyone other than authorized City employees or designees. Contractor agrees to employ industry best practices and utilize the best commercially available cybersecurity technology in the collection, transmission, storage, and access of City Data, including but not limited to:

- a. Storing, collecting, and processing City Data solely on servers physically located within the continental United States of America, in a climate-controlled environment which includes (i) fire and security hazard detection and suppression systems, and (ii) network and electrical redundancy systems, for instance automatic fail-over standby generators or backup Uninterruptable Power Supply.
- b. Utilizing, at a minimum, Multi-Factor Authentication, updated network security certificates, Transport Layer Security or other like transmission security, end-to-end and at rest encryption in accordance with the Federal Information Processing Standard Publication 140 as applicable and as amended from time to time, and other similar security measures commonly utilized in the storage, transmission, and access of data.
- c. Deployment and maintenance of a comprehensive network and cyber security program in accordance with the Framework for Improving Critical Infrastructure Cybersecurity as published and updated by the National Institute of Standards and Technology, the Center for Internet Security Critical Security Controls – Version 7.1 or later, or other generally accepted industry framework of equal rigor.

Contractor agrees that no remote access to such data from any country aside from the United States shall be permitted without the express written consent of City, which may be revoked at any time. All remote Authorized Persons, U.S. based or otherwise, shall only access City Data through secured connections and with Multi-Factor Authentication. Contractor will test and re-evaluate the effectiveness of such precautions on an annual basis and report findings and any changes to the

City's Chief Information Security Officer under Section 8.2.5 below. Authorized Persons may use, process, view the contents of, or monitor City Data only to the extent necessary for contractor to perform under this Agreement.

8.13 Data Breach. "Data Security Incident" means any act or attempt, successful or unsuccessful, to gain unauthorized access to, disrupt, or misuse City Data or an information system of Contractor or City, and includes a data breach as that term is commonly used within the industry. Data Security Incident does not include pings and other broadcast attacks on Contractor's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in a Data Security Incident. Contractor must immediately notify the City by telephone and email no later than twenty-four (24) hours after there arises a reasonable suspicion or probability of a Data Security Incident. Contractor must send an email following up on the Data Security Incident within forty-eight (48) hours following initial discovery of the incident. The Contractor must cooperate with the City's request to investigate and resolve the incident in a timely manner, promptly implement necessary remedial measures, and document all responsive actions and measures related to the data breach to include all post-incident review or after-action reports and actions that will be taken to prevent a reoccurrence of the data breach. If a Data Security Incident occurs in which City Data is accessed, viewed, copied, altered, or deleted, Contractor must:

- a. Investigate, identify, and remediate the root cause of the incident;
- b. Bear any costs associated with the investigation and resolution of the incident;
- c. Prevent the public disclosure of the Data Security Incident except as required by law or with the City's permission;
- d. If applicable, notify parties as required by the North Carolina Identity Theft Protection Act, N.C.G.S. § 75-60 et seq.;
- e. If applicable, engage the services of a credit monitoring or identity protection service;
- f. If applicable, publish a website or toll-free number and call center for affected individuals as required by North Carolina and federal law;
- g. Complete all remedial and corrective actions in accordance with information security industry best practices; and
- h. Provide City with written findings of any investigation and access to remedial measures as they may be relevant to end users or consumers of Contractor's SaaS products.

8.14 Business Continuity and Disaster Recovery Plan. Contractor shall establish and maintain a comprehensive business continuity and disaster recovery plan that covers the restoration of both technology and business operations in the event of an unplanned event. The planning process for the business continuity and disaster recovery plan shall include risk analysis, business impact analysis, and recovery strategies for different scenarios to include geographic/regional events, pandemics, and natural disasters (e.g., tornado, hurricane, flooding, fire, power outage). The business continuity and disaster recovery plan shall cover, among other things, Contractor's operations associated with its activities under

the Agreement. Contractor shall utilize geographically diverse data centers to ensure availability in the event of a disaster or Data Security Incident.

8.15 Data Removal. At the City's request, Contractor shall return all City Data to the City within forty-five (45) days of such request in an industry standard format. Contractor shall not retain any City Data following the above forty-five (45) day period and must remove, delete, purge, overwrite or otherwise render City Data inaccessible. Upon the removal, deletion, or purging of such data, the Contractor will ensure that destruction of the data was performed securely and in accordance with the latest revision of NIST Special Publication 800-88. Contractor will provide to the City a certificate of destruction once data has been destroyed. City may, in its sole discretion and upon written notice to Contractor, instruct Contractor to delete City Data instead of returning such City Data. Contractor will not delete any City data without prior written consent from the City and not before a copy of such data has been provided to the City. For the purposes of this Subsection 8.1.4 and as is necessary to comply with Section 9.25 below, City Data does not include this Agreement or any internal information, documents, data, instruments, records, or reports created by and originating solely with Contractor that, while pertaining to this Agreement, do not otherwise contain City Data as defined above.

8.16 Data Retrieval. For the duration of this Agreement and for forty-five (45) days following this Agreement's expiration or termination, Contractor shall provide the City with a method for accessing, retrieving, and downloading all City Data in a nonproprietary format, and shall assist the City in accessing, retrieving, or downloading all City Data held by any of Contractor's subcontractors who qualify as Authorized Persons.

8.2 Software as a Service. Contractor agrees to provide the Software under this Agreement in an implementable, deployable, and stable release form, and to provide notice of, and access to, any commercially available updates applicable to the Software that are in Contractor's possession at no additional cost.

8.21 Documentation. Contractor shall provide the City a copy of the following documents within three business days of the City's request for such documents. Contractor will adhere to each of its established policies to the extent such policies do not conflict with this Agreement or violate any laws, rules, or regulations. If Contractor does not possess or maintain one of the foregoing policies, Contractor shall notify the City of this deficiency prior to the execution of this Agreement.

- a. Data classification and privacy policy;
- b. Security training and awareness procedures;
- c. Systems administration, patching, and configuration;
- d. Incident response plan;
- e. Managing workstations, mobile devices, and antivirus applications;
- f. Backups, disaster recovery and business continuity plans;
- g. Audit and testing schedules;
- h. Security requirements for third-party business partners and contractors;

- i. Compliance framework for information security or privacy laws, rules, and regulations;
- j. Background check policy;
- k. Log and summary of all previous data breaches; and
- l. Any other relevant information regarding security policies or procedures.

822 Maintenance; Updates; Integration. “Planned Maintenance” means any installation, update, upgrade, maintenance, training, or removal activities conducted by Contractor which have the potential to impact the functionality of the Software, and which are scheduled in advance with notice provided to the City. Planned Maintenance must be scheduled for outside of normal business hours, and notice of any Planned Maintenance must be provided to the City at least seven (7) business days prior to commencement. Notice of any Planned Maintenance that shall, out of necessity, fall within normal business hours must be provided to the City at least three (3) business days prior to commencement. In the event of an emergency which requires Contractor to install, update, upgrade, maintain, train, or remove the Software without providing the notice required by this Section (“Emergency Maintenance”), Contractor shall notify the City as soon as Contractor becomes aware of the need to conduct Emergency Maintenance and shall engage in Emergency Maintenance only after notice has been provided to the City.

Any Software updates provided to the City shall be thoroughly tested by Contractor prior to implementation and shall be provided to the City in an implementable, deployable, and stable release form, with a back out plan, at no additional cost to the City.

823 Uptime. “Material Uptime” means the portion of duration of this Agreement within which the City is entitled to access and use of the Software exclusive of (i) any Planned Maintenance within which the City actually lacks access to or use of the Software, and
(ii) any downtime caused by a Force Majeure event as that term is defined in Section

9.14 below. Contractor shall ensure that Material Uptime meets or exceeds 99.5% of the duration of this Agreement, measured monthly. If during any given month Material Uptime falls below 99.5%, the City shall be entitled to receive, but may decline to redeem, a performance credit equal to the total amount of downtime experienced during that month, exclusive of any time attributable to Planned Maintenance. Redemption or rejection of the performance credit contemplated by this Section does not prejudice the City’s right to pursue any other remedy available under the law and this Agreement.

824 City’s Responsibilities and Restrictions. Insofar and only to the extent that Contractor’s acceptable use policy (“AUP”) applies to the City’s conduct of accessing or using the Software, and to the exclusion of any provision of Contractor’s AUP relating to any subject matter other than the City’s conduct of accessing and using the Software, the City agrees to comply with Contractor’s AUP in existence on the Effective Date while accessing or using the Software. Provisions within Contractor’s AUP expressly rejected by the City include by way of example, but are in no way limited to, terms addressing late fees,

indemnification, time for performance, contract price, automatic renewal, choice of law or venue, termination, conflicts, or security, irrespective of whether those provisions conflict with or are otherwise addressed by this Agreement. The City further agrees not to: (a) use the Software for service bureau or time-sharing purposes; (b) provide passwords or other log-in information to any third party; (c) share non-public Software features or content with any third party except as required by law; or (d) access the Software in order to build a competitive product or service, reverse engineer the Software, or to copy any ideas, features, functions, or graphics of the Software. The City shall take reasonable steps to prevent unauthorized access to the Software, including by protecting its passwords and other log-in information. The City shall notify Contractor immediately of any known or suspected unauthorized use of the Software or breach of its security.

825 Contractor's Responsibilities; System and Organization Control Report. At least annually, Contractor shall perform an audit of its cyber security and data storage system, if applicable, using a third-party auditor ("Security Audit"). Before the date one year from the Effective Date and continuing each year thereafter for the duration of this Agreement, Contractor shall provide a copy of its System and Organization Control (a.k.a. Service Organization Control) Type 2 or Type 1 Report ("SOC Report") to the City at no cost. The SOC Report shall include a copy of the results of the Security Audit from the year preceding the provision of the SOC Report.

826 Intellectual Property. Contractor retains all right, title, and interest in and to the Software, including without limitation all software used to provide the Services and all graphics, user interfaces, logos, and trademarks reproduced through the Software. This Agreement does not grant the City any intellectual property license or rights in or to the Software or any of its components, except to the limited extent that such rights are necessary for the City's use of the Software as specifically authorized by this Agreement. The City recognizes that the Software and its components are protected by copyright and other laws. Notwithstanding all property rights to the Software itself remaining with Contractor, all intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in the City's use of the software shall be the property of the City. Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the City's use of the Software shall vest in the City.

827 Contractor's Warranty. Contractor represents and warrants that it is the owner of the Software and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the rights to use the Software set forth in this Agreement without the further consent of any third party. Contractor's representations and warranties in the preceding sentence do not apply to use of the Software only to the extent that the Software is combined with hardware or software not provided by Contractor. In case of breach of the warranty above, Contractor, at its own

expense, shall promptly: (a) secure for the City the right to continue using the Software; or (b) replace or modify the Software to make it noninfringing; or, if such preceding remedies are not available, (c) refund the fees paid for the Software for every month remaining in the then-current Term following the date after which the City's access to the Software ceases as a result of such breach of warranty. Contractor further warrants that it provides the Services under this agreement in compliance with all applicable laws and regulations, and that the Software does not contain any virus or malicious code. The above warranty is not provided to the exclusion or prejudice of any other remedy available to the City.

828 Payment Card Industry Compliance. If the Services provided require Contractor to possess, store, process, or transmit cardholder data on behalf of the City, the following will apply:

- a. The City is required to annually demonstrate compliance with Payment Card Industry Data Security Standard ("PCI DSS"). In accordance with PCI DSS Requirement 12.8, Contractor is classified as a Service Provider as that term is defined within the most current version of PCI DSS.
- b. Contractor is responsible for the security of cardholder data that Contractor possess, stores, processes, or transmits on behalf of the City.
- c. Contractor will maintain compliance with the most current version of PCI DSS as published by the PCI Security Standards Council, including keeping detailed, complete, and accurate documentation describing the systems, processes, network segments, security controls, and dataflow that could affect the security of the City's cardholder data. Contractor shall provide a valid Attestation of Compliance ("Attestation") with the PCI DSS within five business days of a request from the City. Contractor's failure to maintain compliance with PCI DSS or to provide the Attestation under this Section constitutes grounds for Termination for Cause.
- d. Contractor will make such supporting documentation and individuals responsible for implementing, maintaining, and monitoring PCI DSS related systems and processes available to (i) the City's Chief Finance Office or their designee, (ii) the City's Chief Information Security Officer or their designee, or (iii) any Qualified Security Assessors, forensic investigators, contractors, or attorneys retained by the City to facilitate the audit and review of the City's PCI DSS compliance.

9. MISCELLANEOUS

91 Acknowledgement of City Brand and Tree Logo Ownership and Restrictions. The City of Raleigh has developed proprietary branding (the "City Brand") centered around the Raleigh tree mark logo (the "Tree Logo"). The City's exclusive rights and ownership in and to the Tree Logo are protected under trademark and copyright, including U.S. Copyright Reg. No. VAu1- 322-896, N.C. State Trademark Registration Reg. No. T-23070 and Federal Trademark Registration Reg. No. 5,629,347, as well as under other federal and state laws. Contractor acknowledges and understands that the City is not conferring any license to Contractor under this Agreement to use or depict the Tree Logo or other aspects of the City Brand. Contractor shall not make any use or depiction

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

- 92 **Advertising.** Contractor shall not use the existence of this Agreement, or the name of the City of Raleigh, as part of any advertising without the prior written approval of the City.
- 93 **Amendments.** This Agreement may be amended only by written agreement of the parties executed by their authorized representatives.
- 94 **Applicability of North Carolina Public Records Law.** Notwithstanding any other provisions of this Agreement, this Agreement and all materials submitted to the City by the Contractor are subject to the public records laws of the State of North Carolina and it is the responsibility of the Contractor to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the City. Contractor understands and agrees that the City may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Agreement. To the extent that any other provisions of this Agreement conflict with this paragraph, the provisions of this Section shall control.
- 95 **Assignment.** This Agreement may not be assigned without the express written consent of the City.
- 96 **City Property.** The Contractor shall be responsible for the proper custody and care of any property furnished or purchased by the City and provided to Contractor for use in connection with the performance of this Agreement and will reimburse the City for the replacement value
of its loss or damage.
- 97 **Companies Boycotting Israel Divestment Act Certification.** Contractor certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. § 147-86.81.
- 98 **Compliance with Laws.** Contractor understands and agrees that the City may take any and all actions necessary to comply with federal, state, and local laws and judicial orders and such actions will not constitute a breach of the terms of this Agreement. To the extent that any other provisions of this Agreement conflict with this paragraph, the provisions of this Section shall control.
- 99 **Compliance with Safety Standards.** Contractor shall comply with all laws, ordinances, codes, rules, regulations, safety standards and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. Contractor shall familiarize itself with any

building regulations applicable to any City worksite where Contractor is performing Services.

- 9.10 **Confidentiality.** Contractor shall protect the confidentiality of any and all individuals and will not discuss, transmit, or narrate in any form other information, medical or otherwise, received in the course of providing services hereunder except as authorized by the individual, a legally responsible person for the individual, or as otherwise permitted or required by law.
- 9.11 **Contracting Authority.** Contractor represents and warrants that it has full authority to enter into this Agreement and that each party has obtained all necessary consents in connection with the execution and delivery of this Agreement. The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement on behalf of their party. This Agreement constitutes a valid and legally binding obligation on each party, enforceable in accordance with its terms.
- 9.12 **Entire Agreement / Incorporation of Documents.** This Agreement, and any documents incorporated herein by reference, constitute the complete Agreement between the parties and supersedes all prior oral or written statements or agreements between the parties concerning the subject matter of this Agreement. In cases of conflict between this Agreement and any of the above-incorporated documents, the terms of this Agreement shall prevail.
- 9.13 **E-Verify.** Contractor shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. § 64-25 et seq. In addition, to the best of Contractor's knowledge, any subcontractor employed by Contractor as a part of this Agreement shall be in compliance with the requirements of E-Verify and N.C.G.S. § 64-25 et seq.
- 9.14 **Force Majeure.** Except as otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Agreement, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, controlling governmental order issued pursuant to a public health crisis, or other catastrophic natural event or act of God. Either party to the Agreement must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Agreement by this provision.
- 9.15 **Governing Law.** All matters relating to this Agreement shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Agreement shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.
- 9.16 **Health Insurance Portability and Accountability Act (HIPAA).** In the event that the Services include the collection, processing, storage, or handling of Protected Health

Information as that phrase is defined within Contractor shall comply with any and all laws and subsequent amendment thereof relating to the privacy and security of healthcare information, including the Health Insurance Portability and Accountability Act of 1996 (45 C.F.R. Parts 160, 162 & 164 and 42 C.F.R. Part 2), as further expanded by the Health Information Technology for Economic and Clinical Health Act, which was adopted as a part of the American Recovery and Reinvestment Act of 2009, and any subsequent modification thereof. Pursuant to 45 C.F.R. § 164.506, the parties may share an individual's Protected Health Information for the purposes of treatment, payment, or health care operations without the individual's consent.

- 9.17 **Immunity.** Nothing in this Agreement shall be construed to mandate purchase of insurance by the City pursuant to N.C.G.S. § 160A-485 or in any way waive the City's defense of sovereign or governmental immunity from any cause of action alleged or brought against any party for any reason if otherwise available as a matter of law. No officer, agent or employee of the City shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law.
- 9.18 **Reserved.**
- 9.19 **Iran Divestment Act Certification.** Contractor certifies that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147- 86.55, et seq. In compliance with the intent of the Iran Divestment Act and N.C.G.S. § 147- 86.60, Contractor shall not utilize in the performance of the Agreement any subcontractor that is identified on the Final Divestment List.
- 9.20 **Minority and Women Owned Business Enterprise.** The City of Raleigh prohibits discrimination in any manner against any person based on actual or perceived age, race, color, creed, national origin, sex, mental or physical disability, sexual orientation, gender identity or expression, familial or marital status, religion, economic status, or veteran status. The City maintains an affirmative policy of fostering, promoting, and conducting business with women and minority owned business enterprises.
- 9.21 **Non-Appropriation of Funds.** The City of Raleigh is a governmental entity, and this Agreement's validity is based upon the availability of public funding under the authority of its statutory mandate. In the event that funds are not available and not appropriated to the program specified in this Agreement, then this Agreement shall automatically expire without penalty to either party. In the event of a legal change in the City's statutory authority, mandate, and mandated functions which adversely affects the authority to continue performing obligations under this Agreement, then this Agreement shall automatically expire without penalty to either party.
- 9.22 **Non-Discrimination.** To the extent permitted by North Carolina law, the parties for themselves, their agents, officials, directors, officers, members, representatives, employees, and contractors agree not to discriminate in any manner or in any form based on actual or perceived age, mental or physical disability, sex, religion, creed, race,

color, sexual orientation, gender identity or expression, familial or marital status, economic status, veteran status or national origin in connection with this Agreement or its performance. The parties agree to conform with the provisions and intent of Raleigh City Code § 4-1004 in all matters related to this Agreement. This provision is incorporated into the Agreement for the benefit of the City of Raleigh and its residents and may be enforced by an action for specific performance, injunctive relief, or any other remedy available at law or equity. This section shall be binding on the successors and assigns of all parties with reference to the Agreement.

923 Notices. All notices, requests for payment, or other communications arising under this Agreement shall be in writing and sent to the following individuals:

| <u>City of Raleigh</u> | <u>Contractor</u> |
|------------------------------|-------------------|
| Attn: | Attn: |
| Title: | Title: |
| Address 1: P.O. Box 590 | Address 1: |
| Address 2: Raleigh, NC 27602 | Address 2: |
| Telephone: | Telephone: |
| E-mail: | E-mail: |

All notices required or permitted under this Agreement shall be sufficient if sent by personal delivery, electronic mail, or certified mail. The parties may update their addresses for notice from time to time by notice to the other party in conformance with this Section. Except as otherwise provided in this Agreement, notice is effective only upon receipt by the receiving party.

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

925 Right to Audit and Access to Records. The City may conduct an audit of any services performed and fees paid subject to this Agreement. The City or its designee may perform such an audit throughout the Term of the Agreement and for three (3) years after termination thereof or longer if otherwise required by law. The Contractor and its agents shall maintain all internal books, documents, papers, accounting records, contract records and such other evidence as may be appropriate to substantiate costs incurred under this Agreement. "Records" shall be defined as data of every kind and character, including but not limited to books, documents, papers, accounting records, contract documents, information, and materials that, in the City's sole discretion, relate to matters, rights, duties or obligations of this Agreement. Records and employees shall be available during normal business hours upon advanced written notice. Electronic mail shall constitute written notice for purposes of this section.

The City or its designee shall have the right to: review and copy records; interview current and former employees; conduct such other investigation to verify compliance with

Agreement terms; and conduct such other investigation to substantiate costs incurred by this Agreement. The College shall provide the City or its designee reasonable access to facilities and adequate and appropriate workspace for the conduct of audits. The rights established under this section shall survive the termination of the Agreement, and shall not be deleted, circumvented, limited, confined, or restricted by contract or any other section, clause, addendum, attachment, or the subsequent amendment of this Agreement. The Contractor shall reimburse the City for any overcharges identified by the audit within ninety (90) days of written notice of the City's findings. Contractor shall, upon request, provide any records associated with this engagement to the North Carolina State Auditor that are necessary to comply with the provisions of N.C.G.S. § 147-64.7.

- 926 Severability.** To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 927 Third-Party Beneficiary.** This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the parties hereto, and shall not confer any rights or remedies upon any person or entity other than the parties hereto.
- 928 Trade Secrets.** Notwithstanding any other provisions of this Agreement, this Agreement and all materials submitted to the City by the Contractor are subject to the public records laws of the State of North Carolina and it is the responsibility of the Contractor to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the City. Regardless of what Contractor may label as a trade secret, determination as to whether it is or is not entitled to protection will be determined in accordance with N.C.G.S. § 132-1.2 and any other applicable law.
- 929 Survival.** The provisions of this Agreement related to intellectual property, confidentiality, the right to audit, City Data, indemnification, and insurance survive the termination or expiration of this Agreement.

10. Contractor Riders

10.1 Right to use the Services

Subject to the terms of this Agreement, Contractor grants to the City a limited, non-exclusive, non-transferable right to access and use the Services, and allow its Authorized Users to access and use the Services, solely for City's internal business purposes and not for resale or further distribution. City's right to use the Services is limited by all terms and conditions herein.

City shall be responsible for its Authorized Users in compliance with City's obligations under the terms of the Agreement. Unless otherwise provided in the applicable Order

Form (a) Services are purchased as subscriptions, (b) subscriptions for Services may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

10.2 Restrictions of Use

In addition to all other terms and conditions of this Agreement, You shall not: (i) subject to clause 8.2, sell, transfer or otherwise make the Services available to any third party except the Authorized Users, without prior written permission ; (ii) use the Services for spamming and/or other illegal purposes; or (iii) reverse engineer or access the Services in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Services, or (c) copy any ideas, features, functions or graphics of the Services.

10.3 Ownership of Content

The City retains ownership of all intellectual property rights in any content submitted by the City in the course of using the Services (“Content”). Contractor does not claim ownership over any of City Content. These Terms do not grant Contractor any licenses or rights to City Content except for the limited rights needed for Contractor to provide the Services to the City. The City grants Contractor the right to use and store the City Data solely for purposes of Contractor performing the Services under this agreement.

10.4 Intellectual Property Rights.

See Section 8.2.6, above.

10.5 Definitions

10.5.1. “Authorized User” means any of the City’s employees, officers, directors, consultants, contractors or agents authorized by the City to access and use the Services on behalf of City, in each case subject to such person’s agreement to be bound by the Terms of Service.

10.5.2. “Competitor” means any corporation, partnership or other entity that engages in (or that owns a significant interest in any corporation, partnership or other entity that engages in)(1) hosted or on- premise software focused on the processing of policy documentation, procedure documentation, standard operating procedure documentation or contract documentation.

10.5.3 “City Data” is defined in section 8.1. of this Agreement.

APPENDIX VI

EXCEPTIONS TO THE RFP

CHECK ONE:

- NO EXCEPTIONS, PROPOSER COMPLIES WITH ALL DOCUMENTS IN RFP.
- EXCEPTIONS ARE LISTED BELOW:

| # | RFP Page #, Section, Name, Title, Item # | Exceptions (Describe nature of Exception) | Explain Why This is an Issue | Proposed Alternative | Indicate if exception is Negotiable (N), or Non-negotiable (NN) |
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FAILURE TO IDENTIFY ANY EXCEPTIONS WILL INDICATE ACCEPTANCE OF ALL TERMS AND CONDITIONS, AND REQUIREMENTS OF THE RFP AND ANY CORRESPONDING ADDENDUM ISSUED. THE CITY, AT ITS SOLE DISCRETION, MAY MODIFY OR REJECT ANY EXCEPTION OR PROPOSED CHANGE.

| | | |
|-------------------------|-----------------------|--------|
| Firm: | Authorized Signature: | Title: |
| Printed Name of Signer: | Date: | |