

**CITY OF CHARLOTTE
DEPARTMENT OF GENERAL SERVICES- CITY PROCUREMENT
600 EAST FOURTH STREET,
3RD FLOOR
CHARLOTTE, NORTH CAROLINA 28202**

Date: **February 13, 2023**

Bid Number: **269-2023-021**

Subject: Invitation to Bid on the following apparatus, supplies, materials, equipment, and/or services for:

FIRE APPARATUS

This letter extends an invitation for the submission of a Bid to supply the City of Charlotte with apparatus, supplies, materials, equipment, and/or services as indicated above. Sealed Bids for the above will be received at the office of the Department of General Services, City Procurement, which is located at Charlotte-Mecklenburg Government Center, 600 East Fourth Street, 3rd floor, Charlotte, North Carolina 28202, until **11:00 a.m. EST on April 26, 2023**, at which time they will be opened and publicly read.

A Mandatory Pre-Bid Conference for the purpose of reviewing the Invitation to Bid (ITB) and answering questions regarding the Project will be held on **March 27, 2023, at 11:00 a.m. EST** via videoconference. Bidders need to email Priscilla.Smith@charlottenc.gov to receive a link to the meeting.

Instructions for the preparation and submission of a Bid are contained in the attached packet. Please read them carefully. If you do not desire to offer a Bid, we ask that you let us know by signing in the appropriate space on the Bid Response Form and returning it to us, according to the instructions found in Section 1.8. Otherwise, your name may be removed from our list of potential Bidders considered for future participation.

Any changes to the terms, conditions or specifications stated in this ITB will be documented in a written addendum issued by City Procurement. These addenda will be posted on the Internet at www.ips.state.nc.us and <https://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx>, and may be accessed at this website by searching for Bid number **269-2023-021**. Each Bidder is required to acknowledge receipt of all addenda using the space provided on the enclosed Bid Response Form. Please note that we may not consider any Bid that fails to acknowledge receipt of each issued addendum.

A response from your Company to this ITB would be appreciated. Questions should be submitted in writing to **Priscilla Smith** at Priscilla.Smith@charlottenc.gov.

Sincerely,

Marcy Mars,
Interim Chief Procurement Officer

cc: ITB Project File

Checklist for Submitting a Bid:

Step 1-Read the document fully.

Step 2-If you plan to submit a Bid, please email **Form 1 in Section 4** to the number or email address listed on the form.

Step 3-If you have any questions, send them before the deadline listed in **Section 1.11**.

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

Bid Original and Copies - Please provide the specified number for each format:

- 1 (One) Copy marked "Original" in a sealed, non-transparent envelope that includes the Bidder's name, the Bid number, and identification of the equipment, supply, and/or service for which the Bid is submitted
- 1 (One) Copy on a flash drive

Bid Format - Bids should be formatted as follows:

- Section 4, Form 2, Bid Submission Form**
- Section 4, Form 3, Addenda Acknowledgment Form**
- Section 4, Form 4, Exceptions Form**
- Section 4, Form 5, Pricing Sheet**
- Section 4, Form 6, Non-Discrimination Provision**
- Section 4, Form 7, References**
- Section 4, Form 8, Certification Regarding Debarment, Suspension, and Other Responsibility Matters**
- Section 4, Form 9, Byrd Anti-Lobbying Certification**
- Section 4, Form 10, Business Acknowledgment Form**
- Section 4, Form 11, Required Form Eleven for Attachment A – Engine Specifications**
- Section 4, Form 12, Required Form Twelve for Attachment B – Ladder Specifications**
- Section 4, Form 13, Required Form Thirteen for Attachment C – Midmount Specifications**
- Section 5, Sample Contract**

The above items constitute all that must be included in the Bid package. If awarded a contract, you will be required to provide an insurance certificate that meets or exceeds the requirements set forth in Attachment E - General Conditions, #13, pages 43-44 of the Sample Contract in Section 5.

It is the Company's responsibility to check www.ips.state.nc.us and <https://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx> for any addenda or changes to this Project. Search for Bid # 269-2023-021 to find if any documents or changes have been posted.

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INSTRUCTIONS TO BIDDERS

1.1. Review and Comply:

Each reference to this Invitation to Bid (“ITB”) includes all components listed in the Table of Contents above. Please review each of them carefully. Bidders will be held accountable for having full knowledge of the contents of this ITB and for performing any due diligence that may be necessary to submit a binding Bid.

1.2. Definitions:

Addendum: Refers to any and all modifications or additions to this Invitation to Bid that are issued in writing by City Procurement.

Bid: Refers to a bid submitted by a company in response to this Invitation to Bid. A Bid shall be submitted on the Bid Response Forms included in Section 4 of this ITB.

Bid Response Forms: Refers to the forms that a Bidder is required to complete and return as its Bid, as included in Section 4.

Bidder: Refers to a person or entity that submits a Bid.

CBI: Refers to the Charlotte Business INclusion office of the City of Charlotte.

CCPA: Refers to the Charlotte Cooperative Purchasing Alliance.

Charlotte Combined Statistical Area (CSA): Refers to the area consisting of the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union, and the South Carolina counties of Chester, Lancaster, and York; a criteria used by Charlotte Business INclusion to determine eligibility to participate in the program.

City: Refers to the City of Charlotte, North Carolina.

Company: During the solicitation process, refers to a company that has interest in providing the Products and Services. After the solicitation process, refers to a company that enters into a Contract with the City for all or part of the Products and Services covered by this ITB.

Contract: A contract under which a Bidder agrees to provide all or part of the Products and Services to the City. A Contract shall include the Terms and Conditions set forth in Section 5 of this ITB, together with all attachments referenced therein.

Environmentally Preferable Products: Products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

Minority Business Enterprise (MBE): Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one or more persons who are members of one of the following groups: African American or Black, Hispanic, Asian, Native

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	American, or American Indian; and (iii) has a significant business presence in the Charlotte Combined Statistical Area.
MWSBE:	Refers to SBEs, MBEs and WBEs, collectively.
MWSBE Goal:	If an ITB or Contract has separate Subcontracting Goals for MBEs, WBEs, and/or SBEs, the term MWSBE is a shorthand way to refer collectively to all MBE, WBE, and SBE Goals set for the RFP. In some instances, the City may set one combined goal for MBEs, WBEs, and/or SBEs, in which event the term MWSBE Goal refers to that one, combined goal. In the latter instance, calculated as a percentage, the MWSBE Goal represents the total dollars spent with MBEs, WBEs, and SBEs as a portion of the total Proposal amount, including any contingency.
Post-Consumer Recycled Material:	Refers to material and by-products which have served their intended end-use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
Procurement:	Refers to the City of Charlotte's Department of General Services - City Procurement.
Products:	Refers to all products that the Bidder agrees to provide to the City as part of its Bid.
Recyclability:	Products or materials that can be collected, separated or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.
Recycled Material:	Refers to material and by-products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
Services:	Refers to all services that the Bidder agrees to provide to the City as part of its Bid, including but not limited to training, warranty and maintenance.
Small Business Enterprise (SBE):	Refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
Specifications:	Refers to the written description of the functions or features of the Products and Services for which the City seeks bids, as shown in Section 3.
Terms and Conditions:	Refers to the City's standard contractual terms and conditions as set forth in Section 5.
Women Business Enterprise (WBE):	Refers to a business enterprise that: (i) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the

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meaning of N.C. Gen. Stat. § 143-128.4; (ii) is at least fifty-one percent (51%) owned by one or more persons who are female; and (iii) has a significant business presence in the Charlotte Combined Statistical Area.

1.3. Schedule:

The following chart shows the schedule of events for each prospective Bidder. The key events and deadlines for the bidding process are as follows:

DATE	EVENT
February 13, 2023	<i>Issuance of ITB.</i> The City issues this ITB.
March 6, 2023	<i>Submission of Written Questions Prior to Pre-Bid Conference.</i> Prospective Bidders are permitted to submit written questions for purposes of clarifying this ITB. All submissions must be pursuant to the instructions in Section 1.11. Questions are due by 2:00 p.m. EST on March 6, 2023.
March 27, 2023	<i>Mandatory Pre-Bid Conference:</i> Bidders are required to attend the pre-bid conference to be held on Monday, March 27, 2023, at 11:00 a.m. EST. Bidders need to email Priscilla.Smith@charlottenc.gov to receive a link to the meeting.
April 3, 2023	<i>Final Submission of Written Questions.</i> Final questions are due no later than 4:00 p.m. EST.
April 17, 2023	<i>Final Addendum Posted.</i>
April 26, 2023	<i>Bid Submission & Opening.</i> Bids are due by 11:00 a.m. EST. Please arrange for bid delivery per instructions in Section 1.8. All Bids will be opened and publicly read aloud via Microsoft Teams. Late submissions will not be accepted.
April 26, 2023 – June 21, 2023	<i>Bid Submittal Review</i>
August 28, 2023	<i>Contract Award by Charlotte City Council.</i>
September 11, 2023	<i>Contract Effective Date.</i> The company will begin providing the specified Fire Apparatus to the City of Charlotte.

1.4. Contract Documents:

Each Bid constitutes an offer to become legally bound to a Contract with the City incorporating the ITB and the Bidder’s Bid. Upon Contract award by City Council, the City will send the successful Bidder the Contract, which shall consist of the Terms and Conditions contained in Section 5 of this ITB, together with all attachments referenced therein.

1.5. Exceptions:

Each Bid submitted in response to this ITB constitutes a binding offer to comply with all terms, conditions, special conditions, specifications, and requirements stated in this ITB (including but not limited to the Terms and Conditions), except to the extent that a Bidder takes exception to such provisions in the manner required by this Section. To take exception to a provision of this ITB, the Bidder must clearly identify in Form 4 of the Bid Response Forms each of the following: (1) the number and title of each section of this ITB that the Bidder takes exception to; (2) the specific sentence within such section that the Bidder takes exception to; and (3) any alternate provision proposed by the Bidder. Bidders are reminded that a material variance from the terms of this ITB may result in the Bid being rejected by the City.

1.6. Multiple/Alternate Bids:

No Bidder shall submit more than one (1) Bid unless multiple or alternate Bids are requested in the Special Conditions. Unless specifically stated in the Special Conditions, any multiple or alternate Bids must be brought to the City's attention either during the Pre-Bid Conference or submitted in writing at least five (5) days prior to the opening of the Bid.

1.7. How to Prepare Bid Responses:

All bids shall be prepared as follows:

- Complete the Bid Response Forms provided in Section 4 of this ITB and Specification Checklist for Attachments A, B, and C. Bid responses must be submitted only on these forms.
- Bid responses must be typewritten or completed in ink, signed by the Bidder or the bidding firm's authorized representative. All erasures or corrections must be initialed and dated by the person who signs the Bid Response Form on behalf of the Bidder.
- Bids must be accompanied by accurate descriptions of the exact materials, supplies, vehicles, and/or equipment offered for purchase. The Specifications may require that copies of detailed factory specifications, ratings, technical data, etc. be submitted along with the Bidder's response package.

1.8. How to Submit Bid Responses:

All Bidders shall:

- Submit their Bid in a sealed opaque envelope with the following information written on the outside of that envelope:
 - The Bidder's company name;
 - The Bid number, as indicated on the cover letter to this ITB; and
 - Identification of the equipment, supply and/or service for which the Bid is submitted, as indicated at the top of the cover letter to this ITB.
- Mail or Deliver one (1) unbound original Bid signed in ink by a company official authorized to make a legal and binding offer and one (1) electronic copies on flash drive in a searchable PDF format to the address listed below, to be received no later than **April 26, 2023, at 11:00 a.m. EST**. The original Bid shall be complete and unabridged, and shall not refer to any other copy of the signed and sealed original for any references, clarifications, or additional information. When received, all Bids and supporting materials, as well as correspondence relating to this ITB, shall become the property of the City.

Please be advised that the electronic copy on flash drive must be identical to the unbound original. The flash drive is for evaluation purposes only and will not be accepted as the official original Bid. The original Bid signed in ink by a company official must be submitted to be considered a responsive and valid Bid. **Bids sent by email or facsimile will not be accepted.**

Mail or hand deliver Bid packages to:

Charlotte-Mecklenburg Government Center
Department of General Services - City Procurement
600 East Fourth Street, 3rd Floor
Charlotte, NC 28202
Attn: **PRISCILLA SMITH**
ITB#: **269-2023-021**

Due to increased security concerns at the Charlotte-Mecklenburg Government Center (CMGC) sealed boxes may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place if delivering your Bid in person to the CMGC.

Bidders MUST submit bids by mail (UPS, FedEx, USPS, etc.), or in-person **15 minutes prior to bid opening**. If the bid package cannot be mailed, please contact Priscilla Smith at Priscilla.Smith@charlottenc.gov and schedule a time to meet. **The meeting must occur at least 15 minutes prior to the bid opening for the bid package to be considered delivered.** Please allow time for this process if delivering in-person to the CMGC. **No late deliveries will be accepted. No emailed bids will be accepted.**

Bids not received by the time and date specified in the Cover Letter of this ITB will not be opened or considered, unless the delay is a result of the negligence of the City, its agents, or assigns.

Note that the Bid opening date listed above is based on the assumption that one or more Bidders will submit samples of alternate products for evaluation by the City. In the event no samples are submitted, or in the event the evaluation does not require as much time as anticipated, the City may move up the Bid opening date by issuing a written addendum to this ITB. The City reserves the right to change the Bid opening date, or any other dates relevant to this procurement process, at any time in its sole discretion.

1.9. Bid Opening:

The bid opening will be conducted via Microsoft Teams. To livestream the bid opening via Teams, email Priscilla Smith at Priscilla.Smith@charlottenc.gov for an email link to join the Teams Meeting. Instructions to use Microsoft Teams are below.

Joining a Teams Meeting:

Email Link:

You can join the meeting by clicking on the “**Click here to join the meeting**” link in your email invitation.

- You have three choices:
 - **Download the Windows app:** Download the Teams desktop app
 - **Continue on this browser:** Join a Teams meeting on the web
 - **Open your Teams app:** If you already have the Teams app, go right to your meeting
- Type your name
- Choose your audio and video settings
- Select **Join now**
- Depending on meeting settings, you'll get in right away, or go to a lobby where someone in the meeting will admit you

Call in:

If you're unable to use the Teams app or Teams on the web, you can join some meetings by calling a phone number.

- If there's a phone number and conference ID in the meeting invite, just dial the number to join.
- The number in your invitation may not be local to you. Select **Find a local number** to get one that is.

1.10. Trade Secrets and Personal Identification Information:

Definition

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

Instructions for Marking and Identifying Trade Secrets

If any Bid contains Trade Secrets or PII, such Trade Secrets and PII must specifically and clearly be identified in accordance with this Section by clearly separating them from the rest of the Bid. For hard copy documents, it must be submitted in a separate, sealed envelope, marked either “Personally Identifiable Information – Confidential” or “Trade Secret—Confidential and Proprietary Information.” For electronic submissions, it must also be submitted on a separate flash drive. In both hard copy and electronic format, the confidentiality caption stated above must appear on each page of the Trade Secret or PII materials.

Availability of Bids to City Staff and Contractors

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

Availability of Bids via Public Records Requests

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

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

- Entire Bids may not be marked as Trade Secret; and
- Pricing may not be marked as Trade Secret.

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

1.11. Questions:

There are two (2) ways to ask questions about this ITB: (1) submit a question in writing to **Priscilla Smith** at the email address listed below; or (2) ask a question at the Mandatory Pre-Bid Conference. Other than these permitted questions, Bidders should refrain from contacting City staff prior to the Bid opening date. **The City is not bound by any statements, representations or clarifications regarding this ITB other than those provided in writing by the Procurement Officer.**

PRISCILLA SMITH

ITB # 269-2023-021

Charlotte-Mecklenburg Government Center
Department of General Services - City Procurement
600 East Fourth Street, 3rd Floor
Charlotte, North Carolina 28202
E-mail: Priscilla.Smith@charlottenc.gov

Questions should reference the ITB page and topic number. Questions must be submitted by **4:00 p.m. EST on April 3, 2023**.

The City will post answers to questions posed by prospective Bidders and/or general information concerning this ITB in the form of an addendum to the ITB on the Internet at www.ips.state.nc.us and/or www.charlottenc.gov/doingbusiness. ITB information can be accessed at the website by searching for Bid number 269-2023-021. It is the responsibility of the prospective Bidder to check the website for any addenda issued for this ITB.

A Mandatory Pre-Bid Conference for the purpose of reviewing the ITB and answering questions regarding the Project will be held on **March 27, 2023 at 11:00 a.m. EST**, via videoconference. Bidders need to email Priscilla.Smith@charlottenc.gov to receive a link to the meeting.

1.12. How to Submit an Objection Relating to This Invitation to Bid:

When a Pre-Bid Conference is scheduled, Bidders should either present their objection at that time (either verbally or in writing), or submit a written objection prior to the scheduled Pre-Bid Conference.

When a Pre-Bid Conference is not scheduled, Bidders must submit objections in writing at least ten (10) days prior to the opening of the Bid.

Except for objections raised at the Pre-Bid Conference, all objections must be in writing directed to the Procurement Officer designated in the preceding section.

Failure to object in the manner specified above shall constitute a waiver of any objections the Bidder may have to the terms of this ITB, or anything that occurred in the Bid process through the end of the Pre-Bid Conference.

1.13. Binding Offer:

Each Bid shall constitute a firm offer that is binding for one hundred twenty (120) calendar days from the date of the Bid opening.

1.14. Errors in Bids:

Withdrawal of inadvertently erroneous Bids may be permitted where appropriate, if the request is submitted to the City within seventy-two (72) hours after Bid opening, not including Saturdays, Sundays, and other days the Charlotte-Mecklenburg Government Center is not open to the public for business. A request for withdrawal must be made in writing directed to Priscilla Smith. Consideration of a request to withdraw a bid will be made in accordance with N.C. Gen. Stat. § 143-129.1.

In case of Bidder errors calculating “extended” prices stated in a Bid, the unit prices shall govern.

1.15. City’s Rights and Options:

The City reserves the following rights, which may be exercised at the sole discretion of the City of Charlotte:

- to supplement, amend, substitute or otherwise modify this ITB at any time;
- to cancel this ITB with or without the substitution of another ITB;

- to take any action affecting this ITB, this ITB process or the Products or Services subject to this ITB that would be in the best interests of the City;
- to issue additional requests for information;
- to require one or more Bidders to supplement, clarify or provide additional information in order for the City to evaluate the Bids submitted;
- to conduct investigations with respect to the qualifications and experience of each Bidder;
- to change the Bid opening date or any other dates relevant to this ITB;
- to waive any defect or irregularity in any Bid received;
- to reject any or all Bids;
- to award all, none, or any part of the items that is in the best interest of the City, with one or more of the Bidders responding, which may be done with or without re-solicitation; and
- to enter into any agreement deemed by the City to be in the best interest of the City, with one or more of the Bidders responding.

1.16. Bids on All or Part:

Unless otherwise specified by the City or by the Bidder, the City reserves the right to make award on all or part of the items to be purchased. Bidders may restrict their bids to consideration in the aggregate by so stating in the Bid. However, Bids restricted to consideration in the aggregate must also include a unit price on each item Bid.

1.17. Invitation to Bid Not an Offer:

This ITB does not constitute an offer by the City. No recommendations or conclusions from this ITB process shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

1.18. Charlotte Business INclusion Program:

Pursuant to Charlotte City Council's adoption of the Charlotte Business INclusion (CBI) Policy, the CBI program promotes diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) with a significant business presence in the Charlotte Combined Statistical Area (CSA). The CBI Policy is posted at www.charlottebusinessinclusion.com.

The City is committed to promoting opportunities for maximum participation of certified MWSBEs on City-funded contracts at both the Prime and Subcontract level. For MWSBE participation to count towards a Goal, MWSBEs must meet both the certification and geographic requirements as detailed throughout this solicitation and in the CBI Policy.

1.19. Equal Opportunity:

The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the products and services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Bidders regardless of race, color, religion, age, sex, and national origin or disability.

1.20. No Collusion or Conflict of Interest:

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

Bidder shall also be deemed to have represented and warranted that none of Bidder's or its subcontractors' owners, employees, directors, or contractors will be in violation of the City's Conflict of Interest Policy for City, Secondary and Other Employment Relationships (HR 13) if a Contract is awarded to the Bidder.

1.21. Anti-lobbying Provision:

Maintaining the integrity of its ITB process is of paramount importance for the City. To this end, we ask each Bidder's cooperation in voluntarily refraining from contacting any members of the Charlotte City Council until the award of this Contract is presented to them for approval.

1.22. Certified Test Report:

If the Specifications or Special Conditions require a certified test report, Bidders shall provide such report at their expense, prior to or with their sealed Bids. The certified test report shall be from a recognized independent testing laboratory or manufacturer's quality control laboratory and shall show all test results and full compliance with the applicable Specifications.

1.23. Brand Name:

If and whenever brand names, makes, names of manufacturers, trade names, Bidder catalogs or model numbers are stated in this ITB, they are for the purpose of establishing a grade or quality of material. The City will evaluate any approved alternates to specified brand names as provided in .

1.24. To Submit a Proposed Alternate Product In Lieu of a Specified Brand:

No brand names are specified for this contract.

1.25. Reserved.

1.26. Statutory Requirements:

Any Bid submitted in response to this ITB shall be deemed to include full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable. It is the responsibility of each Bidder to conduct its own due diligence as to what statutory requirements may apply.

1.27. Guarantor:

If the Bidder is a subsidiary of another entity, the City requires that the Bidder's parent entity provide a guarantee of payment of all of the Bidder's obligations under the Contract. The City may also require that the Bidder obtain a guaranty from an entity other than the parent if the City concludes that such guaranty would be beneficial to protect the City's interest. If the Bidder is not a subsidiary, the City may require that the Bidder obtain a guaranty of payment from another entity if the City concludes that such guaranty would be beneficial to protect the City's interest. If a guarantor is required, the Bidder must: (1) identify a guarantor that is acceptable to the City, (2) provide the City with the same financial information about the guarantor that the Bidder is required to provide about itself under this ITB; and (3) provide the City with a signed, legally binding guaranty agreement from the approved guarantor that is acceptable to the City in the City's sole discretion. Failure to comply with the foregoing shall be grounds for rejection of the Bidder's Bid.

1.28. Award Criteria:

Refer to Award of Contract as described in Attachments A - Engine Specifications pages 5 - 100, Attachment B – Ladder Specifications pages 7 - 200, and Attachment C – Midmount Specifications pages 6 - 177 of this ITB.

1.29. Environmental Preferable Purchasing:

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

- | | |
|------------------|---------------------|
| Recycled content | Renewable resources |
| Recyclability | Reduced Packaging |

Biodegradability	Reduced toxicity
Compostability	Low Volatile Organic Compounds (LVOCs)
Energy and Water Efficiency	Pollution Prevention
Life Cycle Management	End of Life Management

Bidders able to supply Products or Services containing any of the applicable environmentally preferable attributes that meet performance requirements are encouraged to offer them in their Bids. Bidders must provide certification of environmental standards and other environmental claims, such as recycled content and emissions data, or a formal statement signed by a senior company official.

1.30 Contract Award by Charlotte City Council:

The Contract to be awarded under this ITB must be approved by the Charlotte City Council. If such approval is granted, City Procurement will provide the Contract to the Bidder for the Bidder to sign and return. In the event City Council approval is not received within one hundred eighty (180) calendar days after opening of the Bids, the Bidder may request that it be released from the Bid.

1.31 Post Award Conference:

A Post-Award Conference may be scheduled as soon as practical after the award of the Contract. The Company shall attend the conference along with the Company's prospective Project Manager and any anticipated major subcontractors, and shall provide at such conference a written schedule for the delivery of any Products or Services for which no delivery dates have been specified in this ITB.

TERMS AND CONDITIONS

Each Bid submitted in response to this ITB constitutes an offer to become legally bound to a Contract incorporating terms and conditions set forth in this Section 2 as well as the Terms and Conditions in Section 5. For purposes of this Section, a Bidder that enters into a Contract with the City may be referred to as the “successful Bidder” or the “Company.”

2.1. Contract Types:

The Contract resulting from this Invitation to Bid will be of the type indicated below:

Definite Quantity: The Contract will be a fixed-price contract that provides for delivery of a specified quantity of Products and Services either at specified times or when ordered.

Indefinite Quantity: The Contract will be a unit price contract for an indefinite amount of Products and Services to be furnished at specified times, or as ordered. In some cases, indefinite quantity contracts may state a minimum quantity that the City is obligated to order. The City may make available to Bidders information regarding the City’s purchase history or projected estimates of the approximate quantity of Products that will be needed. The City makes no representations as to the accuracy of such information. Each Bidder is required to perform its own due diligence on which to base its bid. Inaccuracy of purchase history or projected quantity estimates provided by the City will not give rise to any claim against the City, or entitle any Bidder to rescind its bid or terminate or amend the Contract.

2.2. Terms of Contract:

Unit Price Contract: Contract awarded is for a unit price when product and service needs are based upon indefinite quantities, and where orders will be based on actual needs that may exceed or be less than projections. All expenditures under a unit price contract are contingent upon appropriations having been made by Charlotte City Council.

Contract Terms and Renewal Options: The Contract term shall be for a period of three (3) years from the date of award. The City, at its option, may extend the Contract for up to two (2) additional one-year extensions unless the Bidder objects in writing at least ninety (90) days prior to the beginning of the extension term.

One Time Purchase: Contract awarded is for a specific quantity purchased at one time.

2.3. Notice to Proceed:

The successful Bidder shall not commence work or make shipment under this ITB until duly notified by receipt of an executed Contract from the City. If the successful Bidder commences work or makes shipment prior to that time, such action is taken at the Bidder's risk, without any obligation of reimbursement by the City.

2.4. Delivery Time:

When delivery time is requested in this ITB (whether in the form of a specific delivery date or maximum number of days for delivery), time is of the essence. Each Bid shall be deemed a binding commitment of the Bidder to meet the delivery time stated herein unless the Bid specifically takes exception. If such delivery time is not met, the City shall be entitled to terminate the Contract immediately for default and/or exercise any other remedies available by law or in equity.

2.5. Prices Are Firm:

Each Bidder warrants the Bid price(s), terms and conditions quoted in its Bid shall be firm for acceptance by the City for a period of one hundred twenty (120) calendar days from the date of the Bid opening.

2.6. Reserved.

2.7. Price Increases Based on Cost of Materials:

For any renewal term, the Vendor may increase prices no more than once within a 12-month period. Prices will not increase by more than the percentage increase in the U.S. Bureau of Labor Statistics' Producer Price Indexes (PPI) during the time period since the last pricing went into effect. Prices shall not increase unless the City approves a price adjustment in writing.

2.8. Prompt Payment Discounts:

Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the Contract except as a factor to aid in resolving cases of identical prices.

2.9. Quality:

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

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

2.10. Inspection at Bidder's Site:

The City reserves the right to inspect the equipment, plant, store or other facilities of a Bidder prior to Contract award, and during the Contract term from time to time as the City deems necessary to confirm that such equipment, plant, store or other facilities conform with the Specifications and are adequate and suitable for proper and effective performance of the Contract. Such inspections shall be conducted during normal business hours and upon at least three (3) days' notice to the Bidder (except that a store may be inspected at any time during regular store hours without notice).

2.11. Certification of Independent Price Determination:

By submission of a Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to its own organization, that in connection with this procurement:

The prices in the Bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

Unless otherwise required by law, the Bidder has not knowingly disclosed the prices that have been quoted in this bid directly or indirectly to any other Bidder or to any competition prior to the opening of the bid; and

No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.

2.12. Insurance:

All Bidders must indicate compliance with the Insurance requirements stated in Attachment E - General Conditions, #13, pages 43-44 of the Sample Contract in Section 5.

SPECIFICATIONS

3.1. Background:

The Charlotte Fire Department delivers fire suppression, emergency medical services, technical rescue including urban search and rescue teams, hazardous materials mitigation, fire prevention, domestic preparedness, fire/EMS safety education, and fire investigation programs. From 43 fire stations, including two stations at Charlotte-Douglas International Airport, the CFD provides protection to a population of over 892,000 residing in 320 square miles of Mecklenburg County.

3.2. Scope:

The scope of this Invitation to Bid (ITB) is to establish a contract for the purchase and delivery of fire apparatus and other inherently related activities of the Products and Services and in compliance with the specifications and terms and conditions set forth in this ITB.

All Products and component parts furnished under the Contract shall be new, shall comply with the specifications and terms and conditions set forth in this ITB, and shall operate in full compliance with these Specifications.

3.3. Quantities:

The City does not guarantee quantities and will purchase quantities of Products according to actual need during the term of the Contract. The quantities listed in this ITB are estimates only, and may differ substantially from actual quantities ordered. Multiple orders will be placed on an as needed basis during the term of the Contract.

3.4. Product Specifications:

Refer to Attachments A – Engine Specifications, Attachment B – Ladder Specifications, and Attachment C – Midmount Specifications of this ITB.

3.5. Product Standards:

It is essential that all designs and fabrications by the manufacturer must meet or exceed all NFPA 1901, current edition and DOT standards that are applicable. The design and fabrication style of the structural members of the apparatus mentioned in this document are recommendations, not direct instructions unless specifically stated. These “structural members” include but are not limited to the frame, suspension, and axels. These shall meet or exceed the strength requirements and safety factors stated in the description. They shall be constructed with the long-term durability of the apparatus and the safety of its occupants and its users as a top priority. Given the intended severe duty use of the apparatus, any specification or design from a bidder that is deemed (by the purchaser) unsafe, unreliable, or one that reduces the overall lifetime and/or performance of the apparatus will not be accepted.

Design / Construction / Testing Criteria

The following criteria shall apply to the specifications provided in Attachments A, B, and C of this ITB to the extent specified herein:

- NFPA 1901, Current Edition
- American Society for Testing and Materials (ATSM A36)
- Society of Automotive Engineers, Inc. (SAE) "SAE Handbook"
- American Welding Society (AWS) AWSO 14.477
- American Welding Society (AWS) D1.1 and D1.2
- American Society of Non-Destructive Testing (ASNT) "ASNT CP189

The aerial ladder shall be designed, fabricated, and tested following the above codes and specifications, as well as all other applicable codes, standards, and specifications that may be referenced by any of the above.

Non-Destructive Testing

Steel ladders, turntable, stabilizers, and torque box shall have 100% of all welds tested using both magnetic particle method and visual testing method. Aerials that are fabricated of aluminum shall have 100% of all welds tested using the dye penetrant method and visual method. All testing shall be performed by certified technicians, which are employees of an independent nationally recognized, and certified third-party testing company. Manufacturers who rely on visual inspection (either inhouse or by a third party) as the primary method of testing, and magnetic particle or dye penetrant as a secondary or "proving" test method for only suspect areas shall not be acceptable. In any case, welds shall be tested using two (2) separate NDT inspection methods regardless of the material used to construct the aerial device.

3.6. Reserved.

3.7. Warranty:

Refer to Attachments A – Engine Specifications, Attachment B – Ladder Specifications, and Attachment C – Midmount Specifications of this ITB.

3.8. Installation:

Only experienced professionals should install all products. All work must be performed according to the standards established by the terms, specifications, and drawings and meet manufacturer’s specifications and industry standards.

3.9. Pricing:

Bids shall be submitted as a fixed unit price per item that includes shipping and delivery, any discounts, vendor markup/profit, item cost and storage. No other charges are allowed. (modify as needed – could be a lump sum cost or discount off list price).

3.10. Delivery:

INFORMATION REQUIRED UPON DELIVERY

The manufacturer shall supply at the time of delivery at least two copies of a complete operation and maintenance manual covering the completed aerial device as delivered.

Parts manuals, where possible, shall be cross-referenced to show the actual manufacturer's name, part number, and description of all parts and fittings that are commercially available.

3.11. Delivery Personnel:

All delivery personnel of the successful Bidder may be subject to background checks at the discretion of the City. Bids shall include company policies regarding selection of personnel who will be frequenting City facilities.

3.12. Invoices:

The successful bidder must include invoicing options with their bid submittal. Every invoice must also include the City department that placed the order and be submitted to City of Charlotte Accounts Payable per the billing instructions of the subsequent Contract. Add specific requirements as needed (i.e. electronic billing, etc.)

3.12.1 It is acknowledged and agreed that having correctly priced invoices is a material element of the proposal to the City. Failure by the Company to submit correct invoices may be grounds for termination of the contract.

3.12.2 Invoices must include only Products and Services that have been delivered and completed.

3.13. Award of Contract:

Refer to Attachments A – Engine Specifications, Attachment B – Ladder Specifications, and Attachment C – Midmount Specifications of this ITB.

3.14. City Contracting Requirements:

The City will enter into an Agreement written by the City with the successful Bidder that contains the terms and conditions set forth in this ITB and sample Contract included as Section 5. Each Bidder must state specifically in its bid response any exceptions to the terms and conditions included in this ITB, or the sample Contract and any proposed additional terms or conditions deemed important by the Bidder. The City will take any such exceptions and proposed additions into account during the evaluation process. Any terms and conditions that the Bidder does not specifically object to will be incorporated into the resultant Agreement. Notwithstanding the foregoing, the City reserves the right to change the proposed contractual terms and conditions prior to contract award if it is in the City's best interest to do so.

The terms and conditions set forth in this ITB are not all inclusive. The City may propose additional terms and conditions based on the responses to this ITB and the City's analysis of the successful bid.

The term "Contract" shall refer to the contract entered into between the City and the successful Bidder, and the term "Company" shall refer to the successful Bidder.

3.15. Items Under Contract:

The City reserves the right to add or delete items to this Contract if particular items should become discontinued or an upgraded item becomes available to the industry market. Any new or replacement items added will be subject to bid statute requirements. The City may also delete Product items included in this Contract if the items are no longer needed by the City.

3.16. Customer Service Representative:

The Company must dedicate a Full-Time “Account Executive” for servicing the City. The account executive must be available by cell phone. The cell phone must be operational at all times. All communicational contact, either via phone, email, etc. must be addressed with a response within two (2) business days. The account executive must be available to attend meetings regarding Product issues upon request. The account executive will be responsible for providing immediate response and quick resolution of all the service issues and complaints of City personnel. The account executive must have an in-depth knowledge of all items provided in this bid and have immediate access to manufacturers providing the Product items. He or she must have the ability and authority to make decisions on behalf of their employer enabling them to provide both normal and emergency service as necessary.

3.17. Permitting Responsibilities:

All permits and inspections are the sole responsibility of the successful Bidder.

3.18. No Limitations on Disclosure.

All Bidders agrees that the City shall be able to disclose and distribute to any persons or entities, without restriction, all Products, samples and other Products provided under in the course of this bid process or under the Contract. The Company specifically agrees that the City can and will provide samples of the Products provided under this Contract to the Company’s competitors in any future procurement process.

3.19. Reserved.

3.20. Reserved.

3.21. Placement of Orders:

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

3.22. Reserved.

REQUIRED FORMS

INVITATION TO BID ACKNOWLEDGEMENT

ITB # 269-2023-021

FIRE APPARATUS

The Company hereby certifies receipt of the Invitation to Bid for the City of Charlotte, North Carolina ITB #269-2023-021, Fire Apparatus. This form should be completed upon receipt of the City's ITB and emailed in time for the City to receive it by or before **March 24, 2023**. Failure to submit this form by the designated date shall not preclude the Company from submitting a bid.

Please email the completed form to the attention of:

Priscilla Smith
Department of General Services - City Procurement
Email: Priscilla.Smith@charlottenc.gov

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Contact Name: _____

Contact E-mail address: _____

Please check the appropriate space below and provide the requested information:

We do plan on submitting a Bid.

We do not plan on submitting a Bid.

BID SUBMISSION FORM

ITB # 269-2023-021

FIRE APPARATUS

This Bid is submitted by:

Company Name: _____

Representative (printed): _____

Address: _____

City/State/Zip: _____

Email address: _____

Telephone: _____

(Area Code) Telephone Number

By signing above, the Bidder agrees that the City reserves the right to reject any and all Bids, to award multiple Contracts by line item, combination of items, or grand total according to the best interest of the City, to waive formalities, technicalities, to recover and re-bid this ITB. Bids are valid for one hundred twenty (120) calendar days from Bid Opening.

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

1. Bid/Bid document has been signed by authorized bidder/proposer official.
2. Bid/Bid package has been properly labeled per the instructions. (See Section 1.7)
3. Bid/Bid package contains all of the Bid/Bid Response Package Forms:
 - Bid Submission - Form Two
 - Addenda Acknowledgement - Form Three
 - Exceptions – Form Four
 - Pricing Sheet - Form Five
 - Non-Discrimination Certification Compliance - Form Six
 - Bidder References - Form Seven
 - Certification Regarding Debarment, Suspension and Other Responsibility Matters – Form Eight
 - Byrd Anti-Lobbying Certification – Form Nine
 - Business Acknowledgment Form – Form Ten
 - Specification Compliance Pages of:
 - Attachments A – Engine Specifications
 - Attachment B – Ladder Specifications, and
 - Attachment C – Midmount Specifications

ADDENDA ACKNOWLEDGEMENT FORM

ITB # 269-2023-021

FIRE APPARATUS

Please acknowledge receipt of all addenda by including this form with your Bid. All addenda will be posted to the NC IPS website at www.ips.state.nc.us and the City's Contract Opportunities Site at <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx>.

ADDENDUM #:

**DATE ADDENDUM
DOWNLOADED FROM NC IPS:**

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

(Please Print Name)

Date

Authorized Signature

Title

Company Name

Section 4 - Required Forms
Form Four

I, the undersigned, hereby acknowledge that my company was given the opportunity to provide exceptions to the Sample Terms as included herein as Section 5. As such, I have elected to do the following:

Include exceptions to the sample contract in the following section of my Bid: _____

Not include any exceptions to the Sample Terms.

I, the undersigned, hereby acknowledge that my company was given the opportunity to indicate any Trade Secret materials or Personally Identifiable Information (“PII”) as detailed in Section 1.10. I understand that the City is legally obligated to provide my Bid documents, excluding any appropriately marked Trade Secret information and PII, upon request by any member of the public. As such, my company has elected as follows:

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

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

The signature below certifies that: (a) the Bidder’s Bid complies with the requirements of this Invitation to Bid; and (b) that the Bidder takes no exception to the terms of the ITB other than those listed in the chart contained in this Form.

Date:

Company:

By:

Print name and title of signatory

Signature:

PRICING SHEET

ITB # 269-2023-021

FIRE APPARATUS

The undersigned proposes to furnish the following items in strict conformance to the bid specifications and bid invitation issued by the City of Charlotte for this Bid. Any exceptions are clearly marked in the attached copy of bid specifications. Please do not include taxes in your Bid.

BIDS ARE DUE NO LATER THAN 11:00 A.M. EST., April 26, 2023

Item	Description	MFG Name	MFG Number	Bidder's Product Number	Unit of Measure	Estimated Quantity	Unit Price	Extended Price
1	Engine				Each	1	\$	\$
2	Ladder				Each	1	\$	\$
3	Midmount				Each	1	\$	\$
TOTAL EXTENDED PRICE							\$	\$

Total Bid Price must include all equipment, labor, delivery, installation, consultation, vendor profit and all other costs associated with this project. No additional costs will be allowed.

Payment Terms: _____

****Delivery After Receipt of Order: _____ **Required**.**

The undersigned hereby certifies the Bidder has read the terms of this bid document, including the sample contract (Section 5) and is authorized to bind the firm to the information herein set forth.

Date: _____

Company: _____

By: _____
Print name and title of signatory

Signature: _____

NON-DISCRIMINATION PROVISION

ITB # 269-2023-021

FIRE APPARATUS

All requests for bids or Bids issued for City contracts shall include a certification to be completed by the Bidder or Proposer in substantially the following form:

The undersigned Bidder or Proposer hereby certifies and agrees that the following information is correct:

1. In preparing the enclosed Bid, the Bidder has considered all bids submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned discrimination as defined in **Section 2** below.
2. For purposes of this form, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability, or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the Bid submitted with Non this certification, and terminate any contract awarded based on such Bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder, including possible disqualification from participating in City contracts or bid processes for up to two years.
4. As a condition of contracting with the City, the Bidder agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of suppliers and subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the Bid and to any contract awarded on such bid or Bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance, and shall subject the Bidder to any remedies that are allowed thereunder.
5. As part of its bid, the Bidder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder in a legal or administrative proceeding alleging that Bidder discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a bid to the City, the Bidder or Proposer agrees to comply with the City's Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

NAME OF COMPANY: _____

BY: _____ TITLE: _____

SIGNATURE OF AUTHORIZED OFFICIAL: _____

DATE: _____

REFERENCES
ITB # 269-2023-021
FIRE APPARATUS

Company Name: _____

List three (3) clients excluding the City of Charlotte, for whom you have provided services similar to those outlined in this Invitation to Bid, for reference check:

NAME OF FIRM:	
ADDRESS OF FIRM:	
CONTACT PERSON:	
TELEPHONE NUMBER:	
NAME OF FIRM:	
ADDRESS OF FIRM:	
CONTACT PERSON:	
TELEPHONE NUMBER:	
NAME OF FIRM:	
ADDRESS OF FIRM:	
CONTACT PERSON:	
TELEPHONE NUMBER:	

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS**

ITB # 269-2023-021

FIRE APPARATUS

The bidder, contractor, or subcontractor, as appropriate, certifies to the best of its knowledge and belief that neither it nor any of its officers, directors, or managers who will be working under the Contract, or persons or entities holding a greater than 10% equity interest in it (collectively “Principals”):

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency in the United States;
2. Have within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust or procurement statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state or local) with commission of any of the offenses enumerated in paragraph 2 of this certification; and
4. Have within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award or in some instances, criminal prosecution.

I hereby certify as stated above:

(Print Name)

Signature

Title

Date

I am unable to certify to one or more the above statements. Attached is my explanation. [Check box if applicable]

(Print Name)

Signature

Title

Date

BYRD ANTI-LOBBYING CERTIFICATION

ITB # 269-2023-021

FIRE APPARATUS

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

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including all subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

(Print Name)

Company Name

Authorized Signature

Address

Date

City/State/Zip

BUSINESS ACKNOWLEDGMENT FORM

ITB # 269-2023-021

FIRE APPARATUS

I certify that as an authorized representative of _____ (Company Name), we have an established reputation in the field of fire apparatus manufacturing and have been in business for a minimum of 50 years.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

REQUIRED FORM ELEVEN FOR ATTACHMENT A
ENGINE SPECIFICATIONS
PAGES 5 - 140

REQUIRED FORM TWELVE FOR ATTACHMENT B

LADDER SPECIFICATIONS

PAGES 7 – 200

REQUIRED FORM THIRTEEN FOR ATTACHMENT C

MIDMOUNT SPECIFICATIONS

PAGES 6 - 177

SAMPLE CONTRACT

As used in this Section of the ITB, the term “Contract” shall refer to the agreement entered into between the City and the Company, and the term “Company” shall refer to the vendor that has been awarded a contract.

Contract #:

Fire Apparatus

Effective Date: {---Effective Date---}		City Vendor#: {---Vendor Number---}	
Between the City of Charlotte ("City") and {---Vendor Legal Name---}, ("{---Vendor Reference Name---}")			
This cover sheet (" Cover Sheet ") and each of the attachments listed below (" Attachments ") together comprise a {---Contract Title---} (the " Contract ") entered into as of the Effective Date , between {---Vendor Legal Name---} a {---Vendor State of Incorporation---} {---Vendor Entity Type---} registered to do business in North Carolina and the City of Charlotte, a North Carolina municipal corporation:			
Product Purchase Terms and Warranty General Conditions Price Schedule Specifications Bid Response Forms		Federal Contracting Terms Confidentiality Terms	
Term: This Contract will start on the Effective Date and continue through midnight on {---Expiration Date---} through (the " Initial Term ").		Renewals: The City will have the option to renew this Contract for up to {---Number of Renewal Terms---} one-year terms by giving notice to {---Vendor Reference Name---}.	
Products. {---Vendor Reference Name---} agrees to provide the products and services described in the Attachments ("Products" and "Services") under the terms and conditions stated in this Contract. Compensation. The City will pay for the Products and Services at the prices set forth in the Price Schedule. These prices shall remain firm for the duration of this Contract, unless otherwise stated in the Price Schedule. Capitalized terms used in this Contract have the meanings assigned in this Contract		Email invoices to: cocap@charlottenc.gov -or- Mail invoices to the following: City of Charlotte A/P Attn: P.O. Box 37979 Charlotte, NC 28237-7979 Each invoice shall include the <u>purchase order number and Contract Number</u> and shall be accompanied by a sales tax statement <u>or</u> shall have the sales tax amount shown clearly, along with the invoice total, on the face of the invoice.	
Vendor Business Contact {---Vendor Primary Contact Name---} {---Vendor Legal Name---} {---Vendor Street1---}{---Vendor Street2---} {---Vendor City---}, {---Vendor State/Province---} {---Vendor Zip Code---} Phone: {---Vendor Phone---} Email: {---Vendor Email---}		City Business Contact Priscilla Smith City Procurement 600 East Fourth Street Charlotte, NC 28202 Email: Priscilla.Smith@charlottenc.gov	
By signing below, the parties accept and agree to the terms set forth in this Contract.			
{---Vendor Legal Name---}		City of Charlotte	
Signature: _____		Signature: _____	
Print Name: _____		Print Name: _____	
Title: _____ Date: _____		Title: _____ Date: _____	
No pre-audit certificate is required under N.C. Gen. Stat. 159-28(a) because this Contract is for an indefinite quantity with no minimum purchase requirement. Notwithstanding anything contained herein to the contrary, this Contract does not require the City to purchase a single product or service, and a decision by the City to not make any purchase hereunder will violate neither this Contract nor any implied duty of good faith and fair dealing. The City has no financial obligation under this Contract absent the City's execution of a valid and binding purchase order or contract addendum containing a pre-audit certificate.			

ATTACHMENT D - PURCHASE TERMS

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

1. **Products.** {---Vendor Reference Name---} agrees to sell to the City the products identified in the **Price Schedule** Attachment (the “Products”) for the prices stated therein in such quantities as the City may specify from time to time through the issuance of City Purchase Orders (“POs”). {---Vendor Reference Name---} further agrees to provide to the City the warranty and other services set forth in the Attachments (“Services”). This Contract requires no minimum purchase and imposes no financial obligation on the City, absent the City’s issuance of a PO. The City is entitled to purchase the same or similar products from other suppliers.
2. **Options and Accessories.** The City may in its discretion purchase services and accessories not specified in this Contract, to the extent the City is authorized by law to do so without a formal bid process.
3. **Delivery.** {---Vendor Reference Name---} agrees to deliver the Products within the time frame stated in the attachments, and acknowledges that **time is of the essence** to the City. Delivery shall be to the City location specified in the PO. All delivery costs shall be borne by {---Vendor Reference Name---}. The Company’s Bid shall be deemed a binding commitment of the Company to meet the delivery time stated herein unless the Bid specifically takes exception. If such delivery time is not met, the City shall be entitled to terminate the Contract immediately for default and/or exercise any other remedies available at law or in equity.
4. **Title / Risk of Loss.** Title to and risk of loss of the Product shall pass to the City upon delivery the City location specified in the PO.
5. **Warranty.** All warranty requirements are provided in Attachment A, B, and C of this ITB.
6. **Transfer of Warranties.** Without limiting {---Vendor Reference Name---}’s obligations to provide warranty Services or the Maintenance Services, {---Vendor Reference Name---} hereby assigns and transfers to the City all warranties from any third party suppliers covering the Product, including any embedded software. {---Vendor Reference Name---} will provide copies of such warranties to the City with delivery of the applicable Product. While {---Vendor Reference Name---} shall be entitled to have such warranty work performed by its supplier, {---Vendor Reference Name---} shall remain responsible for providing the Warranty Service.
7. **Replacement Products.** {---Vendor Reference Name---} shall execute all documents necessary to evidence the City’s title to the Product, including replacement Product provided under the Warranty.
8. **Compliance with Laws:** All Products and Services delivered under this Contract shall be in compliance with all applicable federal, state and local laws, regulations and ordinances. In performing the Contract, {---Vendor Reference Name---} shall obtain and maintain all licenses and permits, and comply with all federal, state and local laws, regulations and ordinances.
9. **Quality.** Unless this Contract specifically states otherwise for a particular item, all components used to manufacture or construct any supplies, materials or equipment or Products provided under this Contract shall be: (a) new; (b) the latest model; (c) of the best quality and highest grade workmanship; and (d) in compliance with all applicable federal, state and local laws, regulations and requirements. The term “new”, that the item has been recently produced and has not been previously sold or used.

Whenever this Contract states that a Product or Service shall be in accordance with laws, ordinances, building codes, underwriter’s codes, applicable A.S.T.M. regulations or similar expressions, the requirements of such laws, ordinances, etc., shall be construed to be minimum requirements that are in addition to any other requirements that may be stated in this Contract.
10. **Design Requirement.** All Products and Services shall meet the Specifications set forth in the Specifications Attachment.
11. **Preparation For Delivery**
 - a. **Condition and Packaging.** All containers/packaging shall be suitable for handling, storage or shipment, without damage to the contents. {---Vendor Reference Name---} shall make shipments using the minimum number of containers consistent with the requirements of safe transit, available mode of transportation routing. {---Vendor Reference Name---} will be responsible for confirming that packing is sufficient to assure that all the materials arrive at the correct destination in an undamaged condition ready for their intended use.
 - b. **Marking.** All cartons shall be clearly identified with the City purchase order number and the name of the department making the purchase. Packing lists must be affixed to each carton identifying all contents included in the carton. If more than one carton is shipped, each carton must be numbered and must state the number of that carton in relation to the total number of cartons shipped (i.e. 1 of 4, 2 of 4, etc.).
 - c. **Shipping.** {---Vendor Reference Name---} shall ship all orders FOB Destination. No shipping charges allowed.
12. **Acceptance:** The Products delivered under this Contract shall remain the property of {---Vendor Reference Name---} until the City physically inspects, actually uses and accepts the Products. In the event Products provided to the City do not comply with the Contract, the City shall be entitled to terminate the Contract upon written notice to {---Vendor Reference Name---} and return such Products (and any related goods) to {---Vendor Reference Name---} at {---Vendor Reference Name---}’s expense. In the event the Services provided under this Contract do not comply with the Contract,

the City reserves the right to cancel the Service and rescind any related purchase of products upon written notice to {---Vendor Reference Name---} . The remedies stated in this Section are in addition to and without limitation of any other remedies that the City may have under the Contract, at law or in equity.

13. **Embedded Software.** {---Vendor Reference Name---} grants to the City the right to use the all software embedded in the Product to the full extent necessary to use the Product in the manner contemplated by this Contract.
14. **Documentation:** For all Products purchased under this Contract {---Vendor Reference Name---} will provide written or electronic Documentation that is complete and accurate, and sufficient to enable City employees with ordinary skills and experience to utilize such Products for the purpose for which the City is acquiring them.
15. **No Liens:** All Products shall be delivered and shall remain free and clear of all liens and encumbrances.
16. **No Advertisement:** No manufacturer or dealer shall advertise on Products delivered to the City without prior approval by the City.
17. **Price Adjustments.** The prices stated in the Price Schedule shall remain fixed for the Initial Term.

If {---Vendor Reference Name---}'s unit prices for any Products and/or Services should decrease, {---Vendor Reference Name---} shall provide the affected Products and/or Services at the lower discounted price. {---Vendor Reference Name---} will provide the City with prompt written notice of all decreases in unit prices.

If a Product becomes unavailable, or if a new Product becomes available, {---Vendor Reference Name---} will promptly send the City a proposed revised version of the **Price Schedule**. The City reserves the right to add or delete items to this Contract if particular items should become discontinued or an upgraded item becomes available to the industry market. Any new or replacement items added may be subject to bid statute requirements

Price Increases Based on Cost of Materials

For any renewal term, the Vendor may increase prices no more than once within a 12-month period. Prices will not increase by more than the percentage increase in the U.S. Bureau of Labor Statistics' Producer Price Indexes (PPI) during the time period since the last pricing went into effect. Prices shall not increase unless the City approves a price adjustment in writing.

For any renewal term, prices shall not increase unless the City approves a price adjustment in writing in accordance with the following:

- a. Price increases shall only be allowed when justified in the City's sole discretion based on legitimate, bona fide increases in the cost of materials. No adjustment shall be

made to compensate {---Vendor Reference Name---} for inefficiency in operation, increase in labor costs, or for additional profit.

- b. To obtain approval for a price increase, {---Vendor Reference Name---} shall submit a written request to the City, together with written documentation sufficient to demonstrate that the increase is necessary based on a legitimate increase in the cost of materials. The request must state and fully justify the proposed price increase per unit over the price originally proposed.
- c. No proposed price increase shall be valid unless accepted by the City in writing. The City may approve such price increase for the remaining term of the Contract or for a shorter specified period, in the City's sole discretion. If the City rejects such price increase, {---Vendor Reference Name---} shall continue performance of the Contract.
- d. If the City approves a price increase pursuant to this Section and the market factors justifying the increase shift so that the increase is no longer justified, the City shall have the right to terminate the price increase and revert back to the prices that were in effect immediately prior to the increase. {---Vendor Reference Name---} shall notify the City in writing if the market factors on which the City granted the increase change such that the City's reasons for granting the increase longer apply.

18. **City Materials and Data Treated as Confidential.** {---Vendor Reference Name---} will treat as confidential information all data and materials provided by or processed for the City in connection with this Contract. {---Vendor Reference Name---} will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.

19. **Work on City's Premises.** Whenever on City premises, {---Vendor Reference Name---} will obey all instructions and City policies applicable to City employees and contractors that {---Vendor Reference Name---} is made aware of. If {---Vendor Reference Name---} causes damage to the City's equipment or facilities, {---Vendor Reference Name---} will promptly repair or replace such damaged items at {---Vendor Reference Name---}'s expense.

20. Background Checks.

- a. **BACKGROUND CHECKS REQUIRED PRIOR TO WORK.** Prior to starting work under this Contract, {---Vendor Reference Name---} will conduct a background check on each {---Vendor Reference Name---} employee assigned to work under this Contract, and will require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (b) a reference check.

- b. NEW CHECKS REQUIRED EACH YEAR AND PRIOR TO NEW PROJECTS. After starting work under this Contract, {---Vendor Reference Name---} will, on an annual basis, perform a Background Check for each {---Vendor Reference Name---} employee assigned to work under this Contract during that year, and will require its subcontractors (if any) to do the same for each of their employees. If {---Vendor Reference Name---} undertakes a new project under this Contract, then prior to commencing performance of the project {---Vendor Reference Name---} will perform a Background Check for each {---Vendor Reference Name---} employee assigned to work on the project, and will require its subcontractors (if any) to do the same for each of their employees.
- c. ADDITIONAL INVESTIGATION OF CERTAIN EMPLOYEES. If a person's duties under this Contract fall within the categories described below, the Background Checks that {---Vendor Reference Name---} will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:
- If the job duties require driving: A motor vehicle records check.
 - If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
 - If job duties include entering a private household or interaction with children: A sexual offender registry check.
- d. COMPLIANCE WITH APPLICABLE LAW. {---Vendor Reference Name---} must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.
- e. DUTY TO REPORT INFORMATION TO CITY. {---Vendor Reference Name---} shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.
- f. CHECKS CONDUCTED BY CITY. The City may conduct its own background checks on principals of {---Vendor Reference Name---} as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.
- 21. Billing Records.** During the term of this Contract and for three (3) years after it terminates, {---Vendor Reference Name---} will keep documentation sufficient to verify the amounts billed to the City. The City has the right to audit {---Vendor Reference Name---}'s time cards, invoices, reports and other documents relating to amounts charged under this Contract, and will not be required to pay for: (a) any time billed that was excessive in light of the result achieved, or (b) any Products or Services that did not meet the standards and requirements referenced in this Contract. {---Vendor Reference Name---} agrees to make such documents available for inspection and copying by the City in Charlotte, North Carolina between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday, within ten (10) days after the City requests them. The City shall pay its own expenses relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.

ATTACHMENT E - GENERAL CONDITIONS

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

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

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

10. **REPRESENTATIONS AND WARRANTIES.** {---Vendor Reference Name---} represents, warrants, and covenants that: (a) The Products and Services shall comply with all requirements set forth in this Contract, including but not limited to the Attachments; (b) All work performed by the {---Vendor Reference Name---} and/or its subcontractors pursuant to this Contract shall meet industry accepted standards, and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge; (c) Neither the Products, nor any Services provided by the {---Vendor Reference Name---} under this Contract will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party; (d) {---Vendor Reference Name---} and each of its subcontractors have complied and shall comply in all material respects with all applicable federal, state and local laws, regulations and guidelines relating to the performance of this Contract or to the products and services delivered hereunder, including but not limited to E-Verify, and shall obtain all applicable verifications, permits, and licenses; (e) {---Vendor Reference Name---} is a duly organized and validly existing entity of the type set forth in the first paragraph of this Contract, is in good standing under the laws of the state specified in the first paragraph of this Contract, and is registered to do business in North Carolina; (f) {---Vendor Reference Name---} has the requisite power and authority to execute and perform this Contract; and (g) neither the execution nor the performance of this Contract will violate any third party contractual rights. {---Vendor Reference Name---} and each person signing this Contract for {---Vendor Reference Name---} represents and warrants that the execution, delivery, and performance of this Contract have been duly authorized by {---Vendor Reference Name---}. Additional warranties may be set forth in the Attachments.

11. REMEDIES.

- 11.1. **Right to Withhold Payment.** At the non-breaching party's election, {---Vendor Reference Name---} and the City are each entitled to setoff and deduct from any amounts owed to the other party under this Contract all damages and expenses incurred due to the other party's breach. If {---Vendor Reference Name---} breaches any provision of this Contract, the City may elect to withhold a portion of or all payments due until the breach has been fully cured. The City may obtain performance of the Work elsewhere.
- 11.2. **Misappropriation or Infringement Breach.** In the event of a violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the work provided under this Contract, in addition

to the indemnification obligation under the Contract, {---Vendor Reference Name---} shall (i) procure the right for the City to use the infringing product or service; or (ii) repair or replace the infringing product or service so that it is no longer infringing so long as such modification does not adversely affect the Contract.

11.3. Other Remedies.

The Company acknowledges that this Contract will be funded in whole or in part by a federal grant. In the event that grant funding is lost due to the Company's failure to deliver in compliance with the terms of the Contract, the Company shall be liable for the total amount of grant funds lost, in addition to damages available elsewhere in this Contract. The remedies set forth in this Contract are cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other remedy available at law or in equity. Additional remedies may be set forth in the Attachments.

11.4. Liquidated Damages.

{---Vendor Reference Name---} acknowledges and agrees that the City may incur costs if {---Vendor Reference Name---} fails to meet the certain requirements set forth herein (including without limitation delivery times, inventory levels, accurate invoices and reporting requirements). {---Vendor Reference Name---} further acknowledges and agrees that: (a) the City may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty.

11.5. RIGHT TO COVER.

If {---Vendor Reference Name---} fails to comply with any term or condition of the Contract or the {---Vendor Reference Name---}'s response to the ITB, the City may take any of the following actions with or without terminating the Contract, and in addition to and without limiting any other remedies it may have:

11.5.1. Employ such means as it may deem advisable and appropriate to obtain the applicable Products and/or Services (or reasonable substitutes) from a third party; and

11.5.2. Recover from {---Vendor Reference Name---} the difference between what the City paid for such Products and/or Services on the open market and the price of such Products and/or Services under the Contract or the {---Vendor Reference Name---}'s response to the ITB.

12. **INDEMNIFICATION.** To the fullest extent permitted by law, {---Vendor Reference Name---} shall indemnify, defend, and hold harmless the City and the City' officials, employees, and agents from and against any claims, losses, damages, fines, penalties, royalties, obligations, liabilities, and

expenses, including but not limited to reasonable attorneys' fees to the extent that they arise from actual or alleged:

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

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

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

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

13. **INSURANCE.**

{---Vendor Reference Name---} shall provide and maintain at its expense during the term of this Contract the following program(s) of insurance covering its operations. Such insurance shall be provided by insurer(s) qualified to do business in North Carolina, have a rating at least "A-" by A.M. Best, and be satisfactory to the City as approved by the City's Risk Management Division. Evidence of such programs satisfactory to the City shall be delivered to the City on or before the effective date of this Contract and

prior to commencing any work hereunder. Such policy shall list "City of Charlotte, 600 East Fourth St. Charlotte, NC 28202" as an additional insured for operations or services, rendered under this Contract. City is to be given written notice within thirty (30) days of any termination of any program of insurance.

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

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

The following insurance is required under this Contract:

(a) Automobile Liability

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

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

If {---Vendor Reference Name---} is trucking fuel or hauling potential pollutants, the Automobile Liability coverage shall be broadened to include pollution

coverage on covered autos, and a copy of endorsement CA 99 48 shall be provided to the City. {--Vendor Reference Name---} must also supply the City with evidence of motor carrier endorsement MCS-90 as required by the Federal Motor Carrier Safety Administration’s Motor Carrier Act.

(b) Commercial General Liability

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

(c) Workers’ Compensation Insurance

Insurance meeting the statutory requirements of the State of North Carolina and any applicable Federal laws; and, Employers’ Liability - \$100,000 per accident limit, \$300,000 disease per policy limit, \$100,000 disease each employee limit. If {--Vendor Reference Name---} does not employ more than 2 full time employees, {--Vendor Reference Name---} must attest this fact on company letterhead and include such letter in this Contract.

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

{--City Department Head--}	{--City Atty Assigned--}
{--City Department--}	City Attorney’s Office
{--City Dept Street Address--}	600 East Fourth Street
Charlotte, NC {--City Dept Zip--}	Charlotte, NC 28202
{--City Dept Phone--}	{--City Atty Phone--}
{--City Department email--}	{--City Atty Email--}

Vendor Legal Notice - Name
{--Vendor Reference Name--}
Legal Notice Contact

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

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

16. **REQUIRED BY CITY ORDINANCE: COMMERCIAL NON-DISCRIMINATION.** {--Vendor Reference Name---} agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, which is available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. {--Vendor Reference Name---} consents to be bound by the award of any arbitration conducted thereunder.

17. **REQUIRED BY STATE LAW.**

a. E-Verify. {--Vendor Reference Name---} shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and shall ensure that each of its subcontractors also do so.

b. NC Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel. By executing this contract, {--Vendor Reference Name---} represents and warrants that it is eligible to contract with the City because it is not identified as an ineligible company on the State Treasurer’s list created pursuant to G.S. 147-86.58 or identified as a restricted company for purposes of the Israel Boycott. {--Vendor Reference Name---} also agrees to immediately notify the City if it is identified as an ineligible company on either list at any time during the term of this Contract.

18. **CHARLOTTE BUSINESS INCLUSION PROGRAM.** The City has adopted a CBI Program, which is posted on the City’s website at <https://charlottenc.gov/finance/procurement/cbi/Pages/library.aspx>. The parties agree that:

18.1. The terms of the City’s CBI Policy, as revised from time to time, together with all rules and guidelines established under such program (collectively, the “CBI Policy”) are incorporated into this Contract by reference; and

18.2. A violation of the CBI Policy shall constitute a material breach of this Contract, and shall entitle

the City to exercise any of the remedies set forth in the CBI Policy, including but not limited to liquidated damages; and

- 18.3. Without limiting any of the other remedies the City has under the CBI Policy, the City shall be entitled to withhold periodic payments and final payment due to {---Vendor Reference Name---} under this Contract until the City has received in a form satisfactory to the City all claim releases, payment affidavits, and other documentation required by the City's CBI Policy, and in the event payments are withheld under this provision, {---Vendor Reference Name---} waives any right to interest that might otherwise be warranted on such withheld amount under G.S. 143-134.1; and
- 18.4. The remedies set forth in the CBI Policy shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy; and
- 18.5. The City will incur costs if {---Vendor Reference Name---} violates the CBI Policy, and such costs are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, {---Vendor Reference Name---} agrees to pay the City liquidated damages at the rates set forth in the CBI Policy.
- 18.6. {---Vendor Reference Name---} agrees to participate in any dispute resolution process specified by the City from time to time for the resolution of disputes arising from the CBI Policy.
- 18.7. Nothing in this Section shall be construed to relieve {---Vendor Reference Name---} from any obligation it may have under N.C. Gen. Stat. 143-134.1 regarding the payment of subcontractors.

19. CHARLOTTE BUSINESS INCLUSION MWSBE UTILIZATION AND REPORTING

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

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

{---Vendor Reference Name---} shall not terminate, replace or reduce the work of an MWSBE without providing written notice to the city as outlined in the CBI Policy. Failure of {---Vendor Reference Name---} to fulfill these utilization requirements shall constitute a material breach of this Contract, and

shall entitle the City to exercise any of the remedies set forth in the CBI Policy, including but not limited to liquidated damages.

- 19.2. LETTERS OF INTENT. {---Vendor Reference Name---} acknowledges that it will be required to execute one or more letters of intent on or prior to the Effective Date. Each letter of intent will list the subcontractor (MWSBE) vendor name and the amount that {---Vendor Reference Name---} has committed to spend with the subcontractor. The letter(s) of intent will be submitted in such format as the City shall determine. {---Vendor Reference Name---} consents to submit its letter(s) of intent via the City's selected electronic compliance management system, at the City's option. The letter(s) of intent shall be deemed to be incorporated into this Contract when submitted by {---Vendor Reference Name---} and accepted by the City. Any changes to letters of intent or any new letters of intent will also be deemed incorporated into this Contract when submitted by {---Vendor Reference Name---} and accepted by the City.
- 19.3. PAYMENTS TO MWSBEs. {---Vendor Reference Name---} shall abide by N.C. Gen. Stat. §143-134.1 (b) and within seven (7) days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Furthermore, if {---Vendor Reference Name---} has made a Quick Pay Commitment under the CBI Program, {---Vendor Reference Name---} shall comply with any provisions of the Quick Pay Commitment that are more stringent than N.C. Gen. Stat. §143-134.1 (b), but shall also remain bound by N.C. Gen. Stat. §143-134.1(b).
- 19.4. PAYMENT AFFIDAVITS. As a condition to receiving payments under this Contract, {---Vendor Reference Name---} agrees to provide payment affidavits detailing the amounts paid by {---Vendor Reference Name---} to all subcontractors and suppliers receiving payment in connection with this Contract ("Payment Affidavit"). The absence of MWSBE participation on a contract does not relieve {---Vendor Reference Name---} from the obligation to submit payment affidavits.

The payment affidavit shall be submitted at such times as required by the City. In order to properly file a Payment Affidavit, {---Vendor Reference Name---} and all subcontractors and suppliers under the Contract must be registered in the City's vendor registration system and the City's compliance management system. Payment Affidavits shall be in the format specified by the City from time to time. {---Vendor Reference Name---} consents to submit its Payment Affidavits via the City's selected electronic compliance management system, at the

City's option. Failure to provide such affidavits within the time period specified by the City shall entitle the City to exercise any of the remedies set forth in the Charlotte Business Inclusion Policy.

20. GENERAL.

- 20.1. ENTIRE AGREEMENT/AMENDMENT. This Contract is the parties' entire agreement regarding its subject matter. It supersedes all prior agreements, negotiations, representations, and proposals, written or oral. No change order, amendment, or other modification to this Contract will be valid unless in writing and signed by both {---Vendor Reference Name---} and the City. Clicking "consent" or "agree" electronically when accessing software or a website will not constitute a writing sufficient to bind the City.
- 20.2. RELATIONSHIP OF THE PARTIES. The parties' relationship under this Contract is solely that of independent contractors. Nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.
- 20.3. MULTIPLE CONTRACT AWARDS. This Contract is not exclusive. The City reserves the right to award multiple contracts for the Products and Services required by this Contract if the City deems multiple Contracts to be in the City's best interest.
- 20.4. GOVERNING LAW AND VENUE. North Carolina law will govern all matters relating to this Contract (without regard to North Carolina conflicts of law principles). Any legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina, other than actions to enforce a judgment.
- 20.5. ASSIGNMENT/SUBCONTRACTING. Neither party may assign or subcontract any of its rights or obligations under this Contract without prior written consent of the other party. Unauthorized assignments shall be void.
- 20.6. DELAY / CONSEQUENTIAL DAMAGES. The City will not be liable to {---Vendor Reference Name---}, its agents or any subcontractor for or any delay in performance by the City, or for any consequential, indirect, or special damages or lost profits related to this Contract.
- 20.7. SEVERABILITY. The invalidity of one or more provisions of this Contract will not affect the validity of the remaining provisions so long as the material purposes of the Contract can be achieved. If any provision of this Contract is held to be

unenforceable, then both parties will be relieved of the unenforceable obligations, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

- 20.8. PUBLICITY. {---Vendor Reference Name---} may not identify or reference the City or this Contract in any advertising, sales promotion, or other materials without the City's prior written consent of the City *except*: (i) {---Vendor Reference Name---} may list the City as a reference, and (ii) {---Vendor Reference Name---} may identify the City as a customer in presentations to potential customers.
- 20.9. WAIVER. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Contract shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.
- 20.10. SURVIVAL. Any provision of this Contract that contemplates performance or observance subsequent to termination or expiration of this Contract shall survive termination or expiration and continue in full force and effect for the period so contemplated including, but not limited to, provisions relating to warranties and warranty disclaimers, intellectual property ownership, indemnity, payment terms, and confidentiality.
- 20.11. TAXES. {---Vendor Reference Name---} will pay all applicable federal, state, and local taxes that may be chargeable against the performance of the Services.
- 20.12. CONSTRUCTION OF TERMS. Both parties have carefully considered the particular language used in this Contract. The general rule of law that ambiguities are construed against the drafter will not apply.
- 20.13. DAYS. Unless specifically stated otherwise, all references to days in this Contract refer to calendar days rather than business days. Any references to "business days" shall mean the days that the City's main office at 600 East Fourth Street, Charlotte, NC, is open for the public to transact business.
- 20.14. CONFLICTS OF INTEREST. {---Vendor Reference Name---} will not take any action that is or is likely to be perceived as conflict of interest under this Contract. {---Vendor Reference Name---} has not made and will not make any gifts to City employees or officials in connection with this Contract.
- 20.15. COMPLIANCE WITH LAWS. {---Vendor Reference Name---} and its subcontractors will comply with all

local, state, and federal ordinances, statutes, laws, rules, regulations, and standards ("Applicable Law") in performing this Contract. {---Vendor Reference Name---} represents and warrants that each deliverable provided under this Contract will comply with all Applicable Law, including without limitation the Americans With Disabilities Act.

- 20.16. PRE-AUDIT. No pre-audit certificate is required under N.C. Gen. Stat. 159-28(a) because this Contract is for an indefinite quantity with no

minimum purchase requirement. Notwithstanding anything contained herein to the contrary, this Contract does not require the City to purchase a single product or service, and a decision by the City to not make any purchase hereunder will violate neither this Contract nor any implied duty of good faith and fair dealing. The City has no financial obligation under this Contract absent the City's execution of a valid and binding purchase order or contract addendum containing a pre-audit certificate."

ATTACHMENT F - PRICE SCHEDULE

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

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

ATTACHMENT G - SPECIFICATIONS

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

{TO BE ADDED IN FINAL CONTRACT BASED ON ITB SPECIFICATIONS}

ATTACHMENT H – BID RESPONSE FORMS

ATTACHMENT I - FEDERAL CONTRACTING TERMS

This Attachment is attached and incorporated into the {---Contract Title---} (the "Contract") between the City of Charlotte and {---Vendor Legal Name---} ("{---Vendor Reference Name---}"). Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. In the event of a conflict between this Attachment and the terms of the main body of the Contract or any other Attachment or appendix, the terms of this Attachment shall govern. Unless if indicated to the contrary, these provisions will not apply to {---Vendor Reference Name---} while doing work for Aviation (the Charlotte Douglas International Airport).

1. **Debarment and Suspension.** {---Vendor Reference Name---} represents and warrants that, as of the Effective Date of the Contract, neither {---Vendor Reference Name---} nor any subcontractor or subconsultant performing work under this Contract (at any tier) is included on the federally debarred bidder's list listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." If at any point during the Contract term {---Vendor Reference Name---} or any subcontractor or subconsultant performing work at any tier is included on the federally debarred bidder's list, {---Vendor Reference Name---} shall notify the City immediately. The Company's completed Vendor Debarment Certification is incorporated herein as provided in this Attachment below.
2. **Record Retention.** {---Vendor Reference Name---} certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. {---Vendor Reference Name---} further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three (3) years after it receives City notice that the City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
3. **Procurement of Recovered Materials.** {---Vendor Reference Name---} represents and warrants that in its performance under the Contract, {---Vendor Reference Name---} shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
4. **Clean Air Act and Federal Water Pollution Control Act.** {---Vendor Reference Name---} agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
5. **Energy Efficiency.** {---Vendor Reference Name---} certifies that {---Vendor Reference Name---} will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** {---Vendor Reference Name---} certifies that:
 - 6.1. No federal appropriated funds have been paid or will be paid, by or on behalf of {---Vendor Reference Name---}, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
 - 6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, {---Vendor Reference Name---} shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].
 - 6.3. {---Vendor Reference Name---} shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
 - 6.4. {---Vendor Reference Name---}'s completed Byrd Anti-Lobbying Certification is incorporated herein as provided in this Attachment below.

7. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, {---Vendor Reference Name---} must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, {---Vendor Reference Name---} is required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or purchases of transportation or transmission of intelligence.
8. **Right to Inventions.** If the federal award is a “funding agreement” under 37 CFR 401.2 and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance or experimental, developmental or research work thereunder, the City must comply with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
9. **DHS Seal, Logo, and Flags.** {---Vendor Reference Name---} shall not use the Department of Homeland Security (“DHS”) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
10. **Federal Government Not a Party.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, {---Vendor Reference Name---}, or any other party pertaining to any matter resulting from the Contract.
11. **Domestic Preferences For Procurements.** As appropriate and to the extent consistent with law, the {---Vendor Reference Name---} should, to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the united states (including, but not limited to iron, aluminum, steel, cement, and other manufactured products). For the purposes of this clause, (i) "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the united states, and (ii) "manufactured products" means items and construction materials composed in whole or in part of non-ferrous materials such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

ATTACHMENT J - CONFIDENTIALITY TERMS

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

1. “**CONFIDENTIAL INFORMATION**” means any information, in any medium, whether written, oral or electronic, obtained or accessed in connection with the Contract that is not subject to mandatory disclosure as a public record under North Carolina law, including without limitation the following:

- Trade secrets of the City and its suppliers, contractors and licensors, including software and technical materials.
- *Information marked “Confidential” or “Proprietary”*
- *Computer security information of the City, including passwords, codes, configurations, security standards and protocols, and other network, device and system security features*
- *Building plans of City-owned buildings and structures*
- *Plans to prevent or respond to terrorist activity, including vulnerability and risk assessments, potential targets, specific tactics or specific security or emergency procedures, the disclosure of which would jeopardize the safety of government personnel or the general public or the security of any governmental facility, structure or information storage system(s).*
- *Information contained in the City’s personnel files, as defined by N.C. Gen. Stat. 160A-168 (which includes all information gathered by the City about employees, except information which is a matter of public record under North Carolina law)*
- *Personal identifying information of individuals, such as social security numbers, bank account numbers, credit and debit card numbers, birth dates, PIN numbers and passwords*
- *Billing information of customers maintained in connection with the City providing utility services*
- *Attorney / client privileged information disclosed by either party*
- *Names and address of individuals who have received a rehabilitation grant to repair their homes.*
- *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City*

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

2. **RESTRICTIONS.**

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

- 2.9. {---Vendor Reference Name---} shall ensure that each person who obtains access to Confidential Information through {---Vendor Reference Name---} (including but not limited to {---Vendor Reference Name---}'s employees and subcontractors) has undergone training sufficient to understand his or her responsibilities with respect to this Contract and the City's Restricted Data Policy.
- 2.10. All materials containing Confidential Information shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
3. **EXCEPTIONS.** {---Vendor Reference Name---} shall have no obligation with respect to Confidential Information that {---Vendor Reference Name---} can establish:
- Was already known to {---Vendor Reference Name---} prior to being disclosed by the City;
 - Was or becomes publicly known through no wrongful act of

{---Vendor Reference Name---};

- Was rightfully obtained by {---Vendor Reference Name---} from a third party without similar restriction and without breach hereof;
- Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, {---Vendor Reference Name---} shall first give to the City notice of such requirement or request;
- Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that {---Vendor Reference Name---} shall immediately notify the City prior to disclosure, and reasonably assist the City in seeking a protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.