

**MARKET RESEARCH SUPPORT
SERVICES
REQUEST FOR PROPOSALS**

RFP # 269-20150114001



CHARLOTTESM

**CITY OF CHARLOTTE
NORTH CAROLINA**

AUGUST 3, 2015

Section 1 Introduction

RFP #269-20150114001

MARKET RESEARCH SUPPORT SERVICES

August 3, 2015

Dear Contractor:

The City of Charlotte, located in the State of North Carolina, is now accepting Proposals for Market Research Support Services for various locally-funded and federally-funded projects on an as needed basis. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the "RFP"). Please review them carefully.

A pre-proposal conference for the purpose of reviewing the RFP and answering questions regarding the Project will be held on **August 19, 2015 at 1:00 p.m.**, at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, 2nd floor large conference **room 266**, Charlotte, North Carolina 28202. Please bring a copy of the RFP with you at that time. Phone in to (855) 244-8681 code 734 587 657. All Contractors must return a completed Request for Proposals Acknowledgement Form. Interviews may be requested by the Evaluation Committee from Contractors that fall within the competitive range, and are tentatively set for the dates listed in Section 3.

All Proposals are due to the CATS Administration Division, 9th Floor, CMGC Building, 600 East Fourth Street, Charlotte, North Carolina 28202, no later than **September 2, 2015 at 3:00 p.m.** One (1) original and four (4) copies of your Proposal responses (plus four (4) electronic copies) should be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals
Attention: Phil Charneskie
Name of Company Submitting Proposal
Bus Service Planning Support Services
RFP #269-20150114001

RFP questions must be directed to Phil Charneskie, via email PCharneskie@charlottenc.gov CATS Procurement and Contract Section per the enclosed instructions in Section 3. The City of Charlotte is an equal opportunity purchaser.

Sincerely,

Phil Charneskie, Procurement Officer
Charlotte Area Transit System

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General Information

1. INTRODUCTION.

Purpose of Solicitation

The Charlotte Area Transit Systems (CATS), a department of the City of Charlotte (City), is seeking a qualified Contractor to provide professional Market Research support services for the Marketing and Technology Division. The City wishes to engage a firm to provide assistance in the evaluation, analysis and planning of Market Research for locally-funded and federally-funded projects. The work will include one Ridership Survey and Analysis annually. The contract term will be from date of award through September 30, 2018 with two (2) one-year renewal options. The City will not be responsible or liable for any costs, due to circumstances beyond their control.

Commitment to Safety

The Charlotte Area Transit System (CATS) and the City of Charlotte are committed to the safety of its employees and customers. To that end, the contractor selected shall promote a culture of safety by requiring that employees and visitors under its control adhere to safe practices, procedures and policies that safeguard the wellbeing of all. The contractor that is selected shall coordinate with CATS officials, including officials from the Safety and Security division of CATS, to maintain a safe environment in facilities within its sphere of management. The contractor that is selected is also expected to maintain operations that are safe, and to work with Safety and Security to formulate and follow policies to that end. This responsibility shall include, but is not limited to;

1. A commitment to a safe workplace environment;
2. A team concept where safety is considered to be the responsibility of everybody.

1.1. **Background.**

Mecklenburg County is located in the foothills of the Piedmont, in southern North Carolina. It is the largest county in North Carolina, having a population of nearly one (1) million persons. The largest municipality in Mecklenburg County is the City of Charlotte. The Charlotte Area Transit System (CATS) maintains a dual focus, managing and continually improving day-to-day operations of the City's transit services while moving ahead with the planning of the regional transit system. It is CATS philosophy that the transit system should and can share the responsibility for improving the quality of life throughout the Charlotte region by helping to create a community in which public transportation benefits both riders and non-riders.

In carrying out the work of the regional public transportation system, CATS, its employees, and its contractors subscribe to CATS Values, which include a commitment to public service and our customers.

Bus Service Composition

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CATS provides service throughout Mecklenburg County, including the City of Charlotte and the six suburban towns surrounding Charlotte: Davidson, Huntersville and Cornelius to the north; and Matthews, Pineville and Mint Hill to the south. CATS also provides regional express service to the City of Concord in Cabarrus County, the City of Gastonia in Gaston County, the Town of Monroe in Union County, and the City of Rock Hill in York County, South Carolina.

Local Bus Service

CATS offers an array of services, including local, neighborhood/community shuttle service, and express service. CATS local services operate throughout Mecklenburg County on a fixed route. The majority of these bus routes connect at the Charlotte Transportation Center in the Charlotte Center City. The local bus network includes some crosstown service that permits customers to meet their crosstown travel needs without traveling to the Charlotte Transportation Center.

Express and Regional Express Service

CATS services include express and regional express bus routes. The express routes provide limited stop service to Park and Ride locations throughout Mecklenburg County. Regional express services provide limited stop service to areas outside of Mecklenburg County.

Neighborhood/Community Service

CATS Neighborhood/Community Shuttle Service consists of shorter routes that connect to major arterial Local and/or Express routes.

LYNX Blue Line Light Rail Service

The LYNX Blue Line light rail service began operating in November 2007. It is a 9.6 mile alignment with fifteen stations, beginning at I-485 and South Boulevard in the south, to the 7th Street Station in center city.

Bus routes connect riders into outlying stations, where customers are able to make bus-to-rail and bus-to-bus transfers.

Park and Ride lots are included at the seven stations along the south end of the alignment, adding to their utility as mini-transit centers.

CityLYNX Gold Line

The CityLYNX Gold Line is a fare free streetcar service that operates between the Charlotte Transportation Center and Presbyterian Hospital. The alignment is 1.5 miles long.

Future plans call for extending this service to Johnson C. Smith University on the west end, and along Hawthorne Avenue to Central Avenue on the east end.

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Once this service is extended the plans are to begin charging regular local fare, and to discontinue Gold Rush service.

Blue Line Extension

The Blue Line Extension (BLE) is under construction. The 9.3 mile BLE extends from Ninth Street in Center City through the North Davidson (NoDa) and University areas to UNC-Charlotte. The service will operate generally within the existing railroad right of way from Center City to NoDa and then remain within the North Tryon Street (US 29) right of way from Old Concord Road north, terminating on the UNC-Charlotte campus. Trains will operate seven days a week from 5:30 a.m. until 1:30 a.m. and the fare will equal the cost of local bus fare. Trains will arrive at stations every 7.5 minutes during rush hour and every 15 minutes during non-peak hours. The line is scheduled to begin operations in 2017.

From Uptown Charlotte and heading northeast, stations will be located at 9th Street, Parkwood, 25th Street, 36th Street, Sugar Creek, Old Concord Road, Tom Hunter Road, University City Boulevard, McCullough Boulevard, JW Clay Boulevard, and UNC Charlotte. Similar to the existing LYNX Blue Line, bus routes are expected to be adjusted to connect to the BLE station locations.

1.2. **Purpose of Solicitation.**

In issuing this RFP, the City is seeking to contract with the most qualified Contractor to provide assistance in the performance, evaluation, and analysis of Market Research for CATS bus, street car, and light rail services.

1.3. **General Description of Tasks.**

The Charlotte Area transit System (CATS) is committed to providing quality service, creating a positive image for CATS transit, ensuring that CATS transit is recognized as a value to the community, and increasing ridership. CATS recognizes the importance of understanding how customers rate satisfaction with all aspects of the customer journey, as well as understanding how non-riders rate CATS customer service. Conducting Market Research is a way to gain a measurement of these ratings. CATS uses market research survey results to compare performance ratings on service elements to importance ratings on those same elements to give CATS further insights into each market segment's reactions.

Therefore, CATS will conduct a market research study each year (or every other year) to measure customer and non-rider satisfaction with performance of customer service elements and perception of the importance of these customer service elements and other public transit issues in the Charlotte-Mecklenburg area.

1.4. **Interpretations and Addenda.**

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No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Contractor with the exception of questions posed at the pre-proposal conference. The questions asked at the pre-proposal conference and answers provided will be sent to all Contractors that have requested a Request for Proposal package. Otherwise, Contractors must request such interpretations or clarifications in writing from the City. Requests for information or clarification of this RFP must be made in writing and addressed to Phil Charneskie at the address or e-mail address listed below. Questions should reference the RFP page and section number.

Phil Charneskie, Procurement Officer

RFP #269-20150114001

600 East Fourth Street

Charlotte, North Carolina 28202

Phone: 704-432-1121

E-mail: pcharneskie@charlottenc.gov

When responding to Contractor questions, the City will provide the answer or information in writing. Questions must be submitted by August 17, 2015.

Any written responses issued by the City to questions and requests for information and any changes or supplemental instructions will be made in the form of written addenda which will be posted to the North Carolina State IPS website. The City reserves the right to disqualify any Firm who contacts a City or County official, employee, or agent concerning this RFP other than in accordance with this Section. Nothing in this Section shall prohibit the City from conducting discussions with Contractors after the Proposal opening.

2. GENERAL INFORMATION.

Section 2.0 contains information, which shall govern the general terms and conditions of this Request for Proposals and any subsequent Proposal submissions.

2.1. Definitions.

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

CATS: Refers to the Charlotte Area Transit System. CATS is a department of the City of Charlotte.

CATS – Marketing Division:

Refers to the division within CATS that oversees the provision of bus services.

City: Refers to the City of Charlotte, North Carolina a municipal corporation established in accordance with the laws of the State of North Carolina.

City Project Manager:

Refers to staff person assigned to manage the project.

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- Contract:** Refers to the agreement executed between the Contractor and the City.
- Contractor:** Refers to a Company that has been selected by the City to provide services as described in this RFP or has submitted a Proposal in response to this RFP for review by the City.
- Contract Administrator:**
Refers to CATS staff, which will administer the Contract for the City.
- Effective Date:** The date on which the City executes the Contract arising from this procurement effort.
- Evaluation Committee:**
Refers to the team composed of City staff that will evaluate the Proposals and make a recommendation to City Council.
- Proposal:** Refers to a properly signed and guaranteed written offer of the Contractor to perform the Services and to furnish the labor, materials and equipment at the cost quoted.
- Services:** Refers to services or any work that is required to be performed by the Contractor according to the terms and conditions as set forth in this RFP.
- Service Start Date:** Refers to the date on which services to be provided under the Contract begin. This date is expected to be October 1, 2015. CATS will not be responsible or liable for any costs to the Contractor if service does not begin on that date, due to any circumstance beyond the City's or CATS' control.

2.2. **City Point of Contact.**

CATS will provide one (1) City point of contact for the final Contract, who will represent the City's best interests. The City point of contact will facilitate the flow of information, as needed between the Contractor and various City departments, and act as the Project Manager.

2.3. **Accuracy of RFP and Related Documents.**

The City assumes no responsibility for conclusions or interpretations derived from technical and background information presented in this RFP, or otherwise distributed or made available during this procurement process. In addition, the City will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents provided by the City other than those given in writing by the City through the issuance of addenda. In no event may a Contractor rely on any oral statement by the City or its agents, advisors or consultants.

Should a Contractor find discrepancies or omissions in this RFP or any other documents provided by the City, the Contractor should immediately notify the City of such potential discrepancy in writing, and a written addendum will be mailed or delivered to each Contractor if the City determines clarification to be

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necessary. Each Contractor requesting an interpretation will be responsible for delivering such requests to the City's designated representatives in writing.

2.4. **City Rights and Options.**

The City, at its sole discretion, reserves the following rights:

- 2.4.1. To supplement, amend, substitute or otherwise modify this RFP at any time;
- 2.4.2. To cancel this RFP with or without the substitution of another RFP;
- 2.4.3. To take any action affecting this RFP, this RFP process, or the services or facilities subject to this RFP that would be in the best interests of the City;
- 2.4.4. To issue additional requests for information;
- 2.4.5. To require one or more Contractors to supplement, clarify or provide additional information in order for the City to evaluate the proposals submitted;
- 2.4.6. To conduct investigations with respect to the qualifications and experience of each Contractor;
- 2.4.7. To waive any minor defect or technicality in any Proposal received; and
- 2.4.8. To reject any or all Proposals.
- 2.4.9. To award all, none, or any part of the Services that is in the best interest of the City, which may be done without or without re-solicitation.
- 2.4.10. To discuss and negotiate with selected Contractor(s) any terms and conditions in the Proposals including but not limited to financial terms; and
- 2.4.11. To enter into any agreement deemed by the City to be in the best interest of the City, with one or more of the Contractors responding.

2.5. **Expense of Submittal Preparation.**

The City accepts no liability for the costs and expenses incurred by the Contractors in responding to this RFP, in preparing responses for clarification, in attendance at interviews, participating in contract development sessions, or in meetings and presentations required for the contract approval process. Each Contractor that enters into the procurement process shall prepare the required materials and submittals at its own expense and with the express understanding that they cannot make any claims whatsoever for reimbursement from the City for the costs and expenses associated with the procurement process. All documents and materials submitted as part of this RFP is property of the City and is not subject to return.

2.6. **Proposal Conditions.**

The following terms are applicable to this RFP and your Contractor's Proposal.

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2.6.1. RFP Not An Offer.

This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and the Contractor execute a Contract. No recommendations or conclusions from this RFP process concerning the Contractor 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.

2.6.2. General Reservation of Rights.

The City reserves the right, in its sole discretion, to reject any or all Proposals in response to this RFP, to waive any minor irregularities or informalities in a Proposal, and to enter into any Agreement deemed by the City to be in the best interest of the City, and taking into consideration costs and other factors with one of the Contractors responding. The City reserves the right to discuss and negotiate with selected Contractor any terms and conditions in the Proposals including but not limited to financial terms.

2.6.3. City's Right to Terminate Discussions.

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

2.6.4. Requirement for Representation as to Accuracy and Completeness of Proposal.

Each Contractor shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts."**

2.6.5. Trade Secrets/Confidentiality.

Upon receipt at the Procurement Services Division, your Proposal is considered a public record except for material which qualifies as "trade secret" information under N.C. Gen. Stat. 66-152 et. seq. After the Proposal opening, the City's Evaluation Committee, as well as other City staff and members of the general public who submit public records requests will review the Proposal.

The public disclosure of the contents of each Contractor Proposal submitted in response to this RFP is governed by Chapter 132 and 66-152 et. seq. of the General Statutes of North Carolina. If any Proposal

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contains trade secret information as defined by Chapter 66-152 et. seq. of the General Statutes of North Carolina, such trade secret information should be specifically and clearly identified in accordance with this Section 1.6.4.

To properly designate material as trade secret under these circumstances, each Contractor must take the following precautions: (a) any trade secrets submitted by a Contractor should be submitted in a separate, sealed envelope marked “**Trade Secret—Confidential and Proprietary Information—Do Not Disclose Except for the Purpose of Evaluating this Proposal,**” and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope.

In submitting a Proposal, each Contractor agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired by the City to assist in the selection process.

Furthermore, each Contractor agrees to indemnify 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, which the Contractor has designated as a trade secret. **Any Contractor that designates its entire Proposal as a trade secret may be disqualified.**

2.6.6. **Statutory Requirements.**

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

2.6.7. **Reservation of Right to Change Schedule.**

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

2.6.8. **Reservation of Right to Amend RFP.**

The City reserves the right to amend or cancel this RFP at any time during the process, if it believes that doing so is in the best interests of the City. Any addenda will be sent to each Contractor in writing. Contractors are required to acknowledge their receipt of each amendment by using the Addenda Receipt Confirmation Form.

2.6.9. **Additional Evidence of Ability.**

A Contractor shall be prepared to present additional evidence of its experience, qualifications, abilities, products, service facilities, and financial standing if requested by the City.

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2.6.10. **No Collusion or Conflict of Interest.**

By responding to this RFP, the Contractor shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Contractor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud. Any evidence of collusion or fraud will be investigated and prosecuted by the City to the fullest extent of the law.

2.6.11. **Proposal Terms Firm and Irreversible.**

The signed Proposal shall be considered a firm offer on the part of the Contractor. The City reserves the right to negotiate costs and services. All Proposal responses (including all statements, claims, declarations, costs and specifications in the Proposals) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Contractor chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election. Any false or misleading statements found in the Proposal will be grounds for disqualification.

2.6.12. **Subcontracting.**

The successful Contractor shall be the prime Contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the successful Contractor will assume all responsibility for the performance of services supplied by the subcontractor. The City shall have the right to approve all subcontracts. Each specific subcontract shall contain a clause incorporating by reference all terms and conditions of the prime contract. Additionally, the City must be named as a third party beneficiary in all subcontracts.

2.6.13. **Withdrawal for Modification of Proposals.**

Contractors may change or withdraw their Proposals at any time prior to Proposal opening; however, no oral modifications will be allowed. Only formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal, and received by the City prior to the scheduled closing time for receipt of Proposals, will be accepted. The Proposal, when opened will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked "**Modifications to Proposal.**"

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2.6.14. **No Bribery.**

In submitting a response to this RFP, each Contractor certifies that neither it, any of its affiliates or subcontractor, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with this Agreement.

2.6.15. **Exceptions to RFP.**

Other than exceptions that are proposed in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP. An “exception” is defined as the Contractor’s inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Contractor provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Contractor’s solution, must be described in detail.

2.6.16. **Fair Trade Certifications.**

By submission of a Proposal, the Contractor certifies that in connection with this procurement:

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

2.6.17. **Compliance with Laws.**

In submitting a Proposal, each Contractor agrees to make itself aware of and comply with all local, state, and federal ordinances, statutes, laws, rules, and regulations applicable to the Services covered by this RFP. Each Contractor further agrees that it will at all times during the term of the Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to Workers’ Compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), North Carolina Safety Regulation 19A.03D.0800, and all Occupational Safety and Health Administration (OSHA) regulations applicable to the work covered by this RFP.

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2.6.18. **Clarification of Ambiguities.**

Any Contractor believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify the City in writing of such apparent discrepancy. Notification shall be sent to the City at the address in Section 1.4. Failure to notify the City will constitute a waiver of claim of ambiguity, inconsistency or error.

2.6.19. **Contractor's Obligation to Fully Inform Themselves.**

Contractor's or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Contractor's own risk.

2.6.20. **Post-Award Conference.**

A post-award conference will be scheduled with the successful Contractor as soon as practical after the award of the Contract. A Contractor representative shall attend the conference along with anticipated major subcontractors. At that meeting a detailed implementation schedule shall be submitted to the Project Manager.

2.6.21. **Disclaimer.**

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

2.6.22. **DBE Program.**

The City will act to ensure that Disadvantaged Business Enterprises (DBE) have an equitable opportunity to compete in contracting activities.

2.6.23. **Equal Opportunity.**

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

2.6.24. **Use of City's Name.**

No advertising, sales promotion or other materials of the Contractor or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.

Section 4 Proposal

3. DESCRIPTION OF PROCUREMENT PROCESS.

This Section 3.0 contains information, which shall govern the procurement process for this project.

3.1. Schedule and Process.

The following chart shows the schedule of events to prepare your Contractor's Proposal. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
August 5, 2015	<i>Issuance of RFP.</i>
August 17, 2015	<i>Contractor to submit questions to be addressed at the Pre-Proposal Conference</i>
August 19, 2015	Non-Mandatory Pre-Proposal Conference. Charlotte-Mecklenburg Government Center, Rm. 266, 1:00pm.
August 25, 2015	<i>Submission of Written Questions.</i> Contractors are permitted to submit written questions, but only for purposes of clarifying this RFP. All submissions must be e-mailed to Philip Charneskie at the address and number listed in Section 2.3. Questions are due by noon on August 25, 2105.
September 2, 2015	<i>Proposal Submission.</i> Proposals are due by 3 p.m. on September 2, 2015 , at the CATS Procurement Section, CMGC 9th Floor. All Proposals will be time-stamped upon receipt and held in a secure place until this date.

3.3 INTERPRETATIONS AND ADDENDA.

No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Contractor. Otherwise, Contractors must request such interpretations or clarifications in writing from the City. Address requests for information or clarification of this RFP to PCharneskie@charlottenc.gov. When submitting questions, please reference the RFP page and topic number. In order for questions to be addressed at the Pre-Proposal Conference, they must be submitted by **August 17, 2015**.

Subsequent to the Pre-Proposal Conference, questions must be submitted in writing in a timely manner. In the case of questions not submitted in a timely manner, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given

Section 4 Proposal

before the Proposal Due Date. When responding to Contractor questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at www.ips.state.nc.us, bid# 269-20150114001.

Phil Charneskie
CATS Procurement
RFP # 269-20150114001
E-mail: PCharneskie@charlottenc.gov

The City reserves the right to disqualify any Contractor who contacts a City or County official, employee, or agent concerning this RFP other than in accordance with this Section. Nothing in this Section shall prohibit the City from conducting discussions with Contractors after the Proposal opening.

3.4 PRE-PROPOSAL CONFERENCE.

A Non-Mandatory Pre-Proposal Conference will be conducted on **August 19, 2015 at 1:00 p.m.** The meeting will be held at the Charlotte Mecklenburg Government Center, 600 East 4th St. room 266.

While attendance at the Pre-Proposal Conference is not mandatory, all interested Contractors are encouraged to attend. If special accommodations are required for attendance, please notify Phil Charneskie in advance of the conference date and time identifying the special accommodations required.

3.5 SUBMISSION OF PROPOSALS.

One original Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal, plus (4) four copies of your Proposal responses (plus four (4) electronic copies) shall be submitted to the address: CATS 600 East Fourth Street 9th Floor, Charlotte, North Carolina 28202 by **September 2, 2015 at 3:00 p.m.** The "original" Proposal and each of the copies shall be complete and unabridged, and shall not refer to any other copy of the signed/sealed original for any references, clarifications, or additional information. When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City.

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

Please do not arrive at the Procurement Services Division on the Proposal due date for the purposes of reviewing your competitor's Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved.

3.6 CORRECTION OF ERRORS.

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

3.7 EVALUATION.

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

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

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

Each Contractor will submit a proposal for the resident management team that will manage the fixed route bus system on behalf of CATS. Those proposals will be evaluated according to the criteria identified in Section 3.11.

3.8 CONTRACT AWARD BY COUNCIL.

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

3.9 Binding Proposal.

Each Proposal shall be signed by an individual authorized to bind the Contractor and shall contain a statement to the effect that the Proposal is a firm offer for a one-hundred-eighty (180) calendar day period from the date of the opening. The City reserves the right to negotiate cost and Services. The Proposal shall provide the name, title, address and telephone number of the individual with authority to contractually bind the Contractor.

3.10 PROPOSAL EVALUATION PROCESS AND CRITERIA

Proposals will be evaluated by a team of City staff based an assessment of the totality of each proposal and the respective Contractor's ability to meet the requirements of this RFP.

This section provides a description of the evaluation criteria that will be used by the evaluation team to evaluate each component of the Request for Proposal.

To be deemed responsive, it is important for the Contractor to responds to all components of the RFP, and to provide appropriate detail to demonstrate

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satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. Proposals must contain information specifically related to the proposed services and specifically requested herein. Failure of any Contractor to submit information requested may result in the elimination of the Proposal from further evaluation.

Each Market Research Support Proposal will consist of a technical proposal and cost proposal, and will be evaluated using the following criteria that are listed in descending order of importance:

1. Similar Project Experience – The prospective vendor’s qualification, certifications, and abilities of key individuals identified in the Submittal Package as demonstrated by past experience on similar Market Research projects, including providing services on federally-funded projects
2. Cost Effectiveness and Value – Proposed fees and other pricing information.
3. Resources and Personnel – The prospective vendor’s corporate history to include, background, years of experience, financial strength.
4. Approach and Methodology – The prospective vendor will describe their overall philosophy regarding market research, the set of factors that will inform their decisions along the way, and the principles that they will adhere to in the development of the final product. A step by step framework for the project plan that the vendor will follow is required.

Proposal Quality and Completeness.

The City will evaluate the Proposals for quality and completeness and compliance with the terms, conditions, requirements, and specifications stated in this RFP. Regardless of exceptions taken, Contractor(s) shall provide pricing based on the terms set forth in this RFP. Exceptions shall be identified in accordance with Section 2.6.15 of this RFP. The quality and completeness of the proposal will not be scored but will be considered in the overall determination of a Contractor’s responsiveness and the City reserves the right to reject any proposal that are deemed to have excessive exceptions or exceptions which serve to limit the Contractor’s requirement to indemnify, and hold harmless the City of Charlotte.

Interviews, Meetings and Negotiations with Contractors.

The Contractor may be required to appear before the City/CATS and/or its representatives for an interview. During such interview, the Contractor may be required to orally and otherwise present information about its proposal and to respond in detail to any questions posed.

Additional meetings may be held to clarify issues or to address comments, as the City/CATS deems appropriate. Contractors will be notified in advance of the time and format of such meetings.

3.11 Basis of Award

The Committee will recommend to the City Council the award of a contract to the Contractor whose proposal meets the required qualifications of this procurement and is deemed to be the most responsive and advantageous to the City, based

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on the evaluation criteria, cost effectiveness, and other factors considered subject to negotiation and availability of sufficient funds.

3.12 Reservation of City Option to Add Services

As part of the scope of this RFP, the City expressly reserves unilaterally for itself the option and right to add services to the responsibilities of the Contractor pursuant to this RFP and future contract.

3.13 CATS reserves the right to accept or reject any or all proposals and to waive informalities and minor irregularities. CATS reserves the right to take other action, as necessary. Contractors must propose on all items on the Price Proposal Forms (Section 8, Form Five) in order to be eligible for award.

3.14 Responsibility: CATS reserves the right to investigate the qualifications of all Contractors and to confirm any part of the information furnished by a Contractor, and/or to require other evidence of managerial, financial, or technical capabilities which are considered necessary for the successful performance of the Scope of Work.

3.15 Debriefings. Contractors may request a copy of the consensus summary of proposal strengths and weaknesses for their firm. After contract execution, firms may request a debriefing which will be limited to the debriefed Contractor's overall ranking, the strengths and weaknesses of its Proposal and answers to questions regarding the selection process. Debriefings shall not include a point-by-point comparison of the debriefed Contractor's proposal with the other proposals.

3.16 Protests and Appeals. Before submitting a protest, the Contractor shall ensure it has the most current copy of CATS's written Protest Procedure.

4. PROPOSAL FORMAT.

While the City does not wish to in any way restrict the creativity of the proposals, the City desires all Proposals, which are submitted to be in the same format in order to facilitate comparison. While the City's format may represent departure from the Contractor's preference, the City requests adherence to the format. Each Proposal should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate and reliable presentation. The Proposal will be in the format described below:

- a. Cover Letter and Affidavit;
- b. Executive Summary;
- c. Body of the Proposal (limited to 30 pages)
 - Similar Project Experience;
 - Cost Effectiveness and value;
 - Service Provider Resources and Personnel;
 - Approach and Methodology – Management Plan for the Engagement;
- d. Required Forms
 - Request for Proposal Acknowledgement Form;
 - Addenda Receipt Confirmation Form;
 - Proposal Submission Form;

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- Cost Proposal Submission Form;
 - Commercial Non-Discrimination Form;
 - Debarment Certification;
 - Debarment Certification (subcontractors – if any)
 - Conflict of Interest
 - The E-Verify Certification
 - Lobbying Certification
 - Form A – List of Subcontractors
- e. Exceptions proposed to the remainder of the RFP

All Proposals should be 8 1/2" x 11" format with all standard text no smaller than 11 points. All submissions should use one-sided copying and be bound in a three ring or spiral binder with tab dividers corresponding to the content requirements specified below.

Contractors are requested to organize the information requested in this RFP in accordance with the format outlined. Appendices may be used to facilitate Proposal preparation.

4.1. **Use of Required Forms.**

The Cost Proposal Form provided by CATS shall be used and shall not be altered. **The alteration of the Cost Proposal Form by the Contractor may result in the City, at its sole discretion, deeming the Proposal non-responsive to the requirements of this RFP.**

4.2. **Proposal Content.**

The Scope of Work in Section 5 details the tasks required of the Contractor. Please include examples of procedures, policies and the approach your firm uses in other similar operations.

4.2.1. **Cover Letter and Affidavit.**

The Proposal should contain a letter and introduction and include the company name and address, and the name and telephone number and e-mail address of the persons who will be authorized to represent the Contractor regarding all matters related to the Proposal and any Contract subsequently awarded to said Contractor. This letter shall be signed by a person(s) authorized to bind the company to all commitments made in the Proposal. If the Contractor is a partnership, a general partner must sign the Proposal in the name of the partnership thereof. If the Contractor is a corporation, the proposal must be signed on behalf of the corporation by an officer authorized by the Board of Directors to execute such documents on behalf of the corporation. All signatures above must be original and in ink on a least one copy of the Proposal that will be submitted to the City.

Every Proposal shall have thereon or attached hereto the affidavit of the Contractor indicating that: **such proposal is genuine, not sham or collusive, nor made in the interest of any person not therein named;**

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that the bidder has not directly or indirectly induced or solicited any other Contractor to submit a sham proposal or to refrain from proposing; and that the Contractor has not in any manner sought by collusion to secure for himself an advantage over any other Contractor. Any Proposal made without such affidavit, or found to be in violation thereof, shall not be considered.

By submitting a Proposal pursuant to this RFP and executing the cover letter, the Contractor acknowledges that he/she has read this RFP, understands it, and agrees to be bound by its terms and conditions. Proposals may be submitted by mail or express delivery or delivered in person.

Each Contractor shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **“The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts.”**

4.2.2. **Executive Summary.**

The Contractor shall submit an executive summary, which outlines its Proposal, including the proposed general management philosophy. The executive summary shall, at a minimum, include an identification of the members of the resident staff and a brief summary of their experience. This section should highlight aspects of this Proposal, which make it superior or unique in addressing the needs of the City.

4.2.3 **Similar Project Experience**

The Proposal must provide a concise description of the proposing company, including origin, state of incorporation (if applicable), background, and current size.

If the submittal is from a team, describe any past collaborations. Include the responsibility of each team member, and the project outcome. Discuss the successes of the team collaboration, any problems encountered and methods used to mitigate issues and resolve potential conflicts.

Provide a list with a maximum of ten (10) relevant projects, including any Federally-funded projects if applicable, currently in process or performed in the **past ten (10) years**, containing work comparable to the work anticipated as a result of this this RFP, in the following order:

- List only projects involving current staff of the proposed prime consultant and any proposed subconsultants;
- List projects in date order with newest projects listed first;

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For each project listed, include a brief description; the date the services were performed; the name, address and phone number of the client representative having knowledge of the firm's work; the dollar amount; the total time period involved; and case resolution.

Your proposal should also include:

- Explain the general character of work performed by your firm.
- Describe your firm's qualifications and experience to perform the work described in this RFP. Information about experience should include direct experience with the specific subject-matter area.
- Describe your knowledge of the service area associated with this RFP.
- Describe the performance standards your firm has established for Market Research and Reporting. Describe any tools (data sources, geographic and mapping, spreadsheet) used by your firm.
- Has your firm ever failed to complete any work awarded to you? Has your firm ever defaulted or been terminated from a contract prior to completion? If yes, please provide details.

4.2.4 Cost Effectiveness and Value

Provide a plan and a detailed cost estimate to demonstrate cost effectiveness and value.

4.2.5 Resources and Personnel

This engagement requires the provision of a team of professionals.

Describe the roles of the personnel who will be engaged in the CATS project team and describe their experience. Provide an approximate number of hours of work for each individual named in this section. Describe corporate resources that will aid in the achievement of a successful project outcome.

Please identify each member of your proposed project management team and an organizational chart specific to this engagement. Include in your proposal resumes for each of the team members and at least three professional references complete with addresses and phone numbers for each. (Resumes and references will be as attachments and are not included in the 30-page limit for the body of the proposal.)

Provide an organizational chart and identify key members of the team, including subconsultants, who would be assigned to this project. The chart should clearly delineate roles and responsibilities of the various team members. Please indicate the geographical location of any team member whose office is outside the Charlotte

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metro area. Also, identify the Project Manager who will be empowered to make decisions for and act on behalf of the firm.

Describe any experience or capability in the following areas:

- Establishing excellent working relationship with sponsor
- Any other applicable skills such as bi-lingual staff

Your proposal should include.

- Project Manager's background and experience.
- Other positions proposed for this engagement and how they add value to the project team. Explain background and experience.
- Explain the nature of the Project Manager's relationship with Corporate Management and how and with who will CATS interact with regarding Corporate Support.
- Explain why your firm believes the managers proposed are suited for this engagement. What experience do they bring which will be beneficial to this assignment?
- Describe any additional corporate oversight and support proposed for this project.
- Describe the technical support and corporate resources that are available to supplement the resident management team.
- Describe the plan for use of technical support that your firm will make available if your firm is chosen for this assignment.
- Identify any part-time or independent contractors who are available from your firm to support this engagement. Specify their expertise and relevant experience.
- Describe any proprietary or copyrighted programs that may be available to the City of Charlotte if your firm is selected for this engagement.

4.2.6 Approach and Methodology

This section should describe the Contractor's methods and resources to perform the work described in this RFP, including how the Contractor makes effective use of personnel to ensure quality delivery of service.

Describe the "project approach", procedures and processes for managing performance based on past experience in the following:

- Management: Describe your firm's working relationships with the City, citizens, and other interested parties and how your firm intends to mitigate conflicts.
- Execution of the Work: Describe your firm's proposed method and processes to ensure that delivery of the Services run smoothly.

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- Schedule: Describe your firm's approach to managing the schedule for all work and services required and how to ensure those schedule milestones are met.
- Cost Control: Describe your firm's general approach to managing costs including but not limited to the fees and/or pricing requested as part of this RFP.

Your proposal should include:

- Describe how your firm will approach the project.
- Describe the procedures that your firm will employ to ensure service quality.
- Describe your firm's approach to Market Survey. What characteristics make for good survey?
- Describe how your firm manages customer feedback, including resolution and communication to employees, customers and CATS staff.
- Describe internal (on-site) and corporate quality control programs designed to ensure that service standards are met.
- Provide a description of all major activities to be performed. Include a detailed project schedule including estimating the minimum amount of time required to complete.

5. SCOPE OF WORK

5.1 Purpose of Solicitation.

In issuing this RFP, the City is seeking to contract with a Contractor, whose proposal is the most responsive and advantageous to the City with evaluation factors considered to provide an easy to use and cost effective Market Research service.

5.2 General Description of Tasks to be Performed

Work associated with this RFP shall include but not be limited to the following tasks:

Market Research Study

The Charlotte Area transit System (CATS) is committed to providing quality service, creating a positive image for CATS transit, ensuring that CATS transit is recognized as a value to the community, and increasing ridership. CATS recognizes the importance of understanding how customers rate satisfaction with all aspects of the customer journey, as well as understanding how non-riders rate CATS customer service. Conducting Market Research is a way to gain a measurement of these ratings. CATS uses market research survey results to compare performance ratings on service elements to importance ratings on those

same elements to give CATS further insights into each market segment's receptions.

Therefore, CATS will conduct a market research study each year (or every other year) to measure customer and non-rider satisfaction with performance of customer service elements and perception of the importance of these customer service elements and other public transit issues in the Charlotte-Mecklenburg area.

Required Features

Customer Survey and **Non-rider Survey** must be nearly identical. Differences between the surveys will serve to ensure that the questions are relevant to each respective group with additional issues pertaining to that group. However, using nearly identical surveys will allow for comparisons between the two groups.

Critical Capabilities

To perform the services required in this RFP, the following capabilities are critical;

- Strict adherence to statistical methodologies
- Ability to distribute surveys to specified number of bus riders
- Ability to survey non-riders/general public via telephone interviewing or other means
- Ability to provide an adequate number of surveyors to ensure validity
- Ability to handle requests within specified time
- Ability to verify survey data and ensure quality of data at time of administration
- Overall validity of collected and reported data
- Ability to produce results in format requested
- Overall quality of survey, data, and results

On-Board Surveys

Current transit riders are the life blood of CATS. CATS is dedicated to operating a transit system that not only meets our customers' expectations, but exceeds them where possible. Understanding how well CATS is performing on the key elements of customer satisfaction with service delivery is essential to maintaining and growing ridership.

On-board surveying shall be conducted on every bus route. On-board surveying of each route will be staggered to cover each day of the week and all times of bus operation. The number of riders surveyed per route must be calculated to account for each route's percentage of the total ridership of all CATS services. The total number of surveyed riders must be statistically significant to the 95%

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confidence level. However, it is not necessary that individual route data be statistically significant.

On-board surveys must be written so that self-administration is possible and distributed via a random sampling method. Interviewers must be present to administer surveys to those passengers who would prefer to have the survey read aloud to them to limit self-exclusion. Spanish language versions of the questionnaire should also be available with interviewers prepared to answer questions pertaining to the Spanish language version (interviewers require rudimentary Spanish language skills). All refusals to take part in the survey must be noted and recorded with the survey results.

Non-rider Surveys (telephone)

Non-riders are an integral part of CATS Market Research as they provide general public responses and casual observer perceptions. CATS realizes that non-rider opinions are equally important as current CATS transit riders in adding value to the market research of the Charlotte region.

Non-rider surveys will be conducted via telephone interviews (or other acceptable means). Non-rider surveys will be conducted to cover Mecklenburg and surrounding counties. Once the number of non-rider surveys has been determined, the number of telephone surveys conducted should be based on the percentage of CATS transit riders whose commute originates within Mecklenburg County. The balance of non-rider surveys would then be based on the percentage of riders whose commute originates outside of Mecklenburg County distributed proportionally in Cabarrus, Gaston, Iredell, Union and York Counties. The total number of non-rider telephone surveys should be significant to the 95% confidence level. However, it is not necessary that individual county data be statistically significant.

Research Schedule

Completing a full scale on-board/non-rider research study every other year is not the only research within this scope of service. CATS will schedule a smaller scale research study in the years between the full-scale studies. CATS business is on-going with initiatives and goals established throughout the year. As these initiatives are implemented the results will need to be measured. Therefore, CATS will continue to schedule and task the consultant to conduct research projects.

Full-Scale On-board and Non-rider surveying shall begin during the first full week of March each year. On-board interviewing will be conducted over a six week period and non-rider interviewing will be conducted over a four week period. However, no interviewing will be conducted during week of Easter. Additional time may be allowed as approved by CATS. Survey results shall be delivered to CATS no later than the first Friday of June. The results will be delivered to the Market Research Specialist at CATS Marketing and Communications Division, 600 East 4th Street, Charlotte, N.C.

Surveying

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Surveys must be administered according to the above sections titled “On-Board Surveys” and “Non-rider Surveys”, with no less surveys completed per route or per county to be statistically significant to the 95% confidence level. It is imperative that a statistically significant number of surveys be administered and completed with valid data. On-board and telephone surveys shall be checked for validity and completion at time of survey. Examples of invalid data are misspelled words or unclear handwriting. Examples of invalid data are skipped questions or no data. Incomplete data must be kept to a minimum by ensuring that a “don’t know” or “refused” as an option for each question. A complete survey is defined as a survey in which all questions have been answered with a valid response. If a survey respondent refuses to take either, the on-board or telephone survey, the surveyor shall record that response, as refusal percentage is important to the market research study

Results

The market research study(s) shall be reported in two parts:

- 1) A written report highlighting key findings, interpretations, with charts and graphs, etc., and
- 2) Statistical data tables (raw files).

Delivery of three (3) hard copies of the report and one (1) hard copy of each set of data tables as well as one (1) CD containing the report and data tables is required.

The report shall include:

- Executive Summary which will include customer (on-board) and non-rider (telephone) profiles and key findings.
- Detailed description of Methodology used to conduct the study, including margins of error.
- Separate analyses of customers and non-riders, to include:
 - * Demographics
 - * Performance and Importance Analyses
 - * Perceptions and attitudes towards transit
- Key element comparisons between customers and non-riders
- Performance vs. Importance gap analysis, i.e. gaps in service demand and delivery
- Identification of values and attributes CATS should emphasize in promoting and operating its services.
- Raw data tables, cross-referenced to show key data (i.e. data by demographics or data by route type)
- A comparison of current results to: 1) the benchmark study (2000) and 2) the most recent study conducted. In the case that it is not practice to compare these results (i.e. different research firm each year with a

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different statistical package used), data must be delivered in a format compatible to CATS data.

- Linear model analysis for customers and non-riders covering the following six Dimensions of Performance and their relationship to overall image and performance measures;
 - * Information
 - * Safety
 - * Cleanliness
 - * Customer Service
 - * Amenities/Comfort
 - * Bus Service-Operations/Planning

CATS requires the option of a presentation created by the consultant. This presentation shall cover the entire study and provide all significant information. If CATS exercises the option for a presentation, it will be scheduled for delivery not later than June 4, 2016.

Delays and Extensions

Extensions of time for unforeseen or unavoidable delays shall only be granted by mutual consent of the parties involved, with CATS reserving the authority of approval for any extension. CATS must be notified, in writing, thirty (30) days prior to the original delivery date if a delay is anticipated.

Section 7

City Contracting Requirements

7. CITY CONTRACTING REQUIREMENTS.

The City will enter into a Contract with the successful Contractor that contains the terms and conditions set forth in this RFP. Each Contractor must state specifically in its Proposal any exceptions to the terms and conditions included in this Section, and any proposed additional terms or conditions deemed important by the Contractor. The City will take any such exceptions and proposed additions into account during the evaluation and selection process. Any terms and conditions that the Contractor does not specifically object to will be incorporated into the Contract. Notwithstanding the foregoing, the City reserves the right to change the proposed contractual terms and conditions prior to or during contract negotiations if it is in the City's best interest to do so.

The terms and conditions set forth in this section are not all inclusive. Contractual services will be competitively negotiated in compliance with the terms of the Federal Transit Administration's Master Agreement. Since federal funds may be used, any additional federal requirements will also apply. CATS reserves the right to reject any and all Proposals received, although CATS also reserves the right to waive irregularities.

The City may propose additional terms and conditions based on the responses to this RFP and the City's analysis of the successful Contractor's proposal.

As used in this Section of the RFP, the term "Agreement" shall refer to the Contract entered into between the City and the successful Contractor, and the term "Company" shall refer to the successful Contractor. The term "services" shall mean Transit Management Services provided to Bus Operations to be performed by the Company under the Contract.

Section 7

City Contracting Requirements

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

MARKET RESEARCH SUPPORT
SERVICES FOR THE CHARLOTTE AREA TRANSIT SYSTEMS
OPERATIONS DIVISION CONTRACT
CONTRACT NUMBER - XXXXXXX

THIS SERVICES CONTRACT (the "Contract") is made and entered into as of the ____ day of September, 2015, by and between (CONTRACTOR NAME), a (STATE OF INCORPORATION) Corporation doing business in North Carolina (the "Company"), and the City of Charlotte, a North Carolina Municipal Corporation (the "City"). The parties agree that the terms and provisions of this Contract apply to the mutual obligations of the parties beginning _____ (the "Effective Date").

RECITALS

WHEREAS, the City through the Charlotte Area Transit System ("CATS"), sent out a "Request for Proposals for Transit Management Services" RFP #269-20150114001, dated August 5, 2015, requesting proposals from qualified vendors to provide the City with Market Research services for its Marketing Division. This Request for Proposals, together with all attachments and amendments, is referred to herein as the "RFP"; and

WHEREAS, in response to the RFP, the Company submitted to the City a proposal dated (INSERT DATE). This proposal together with all attachments and separately sealed confidential trade secrets is referred to herein as the "Proposal"; and

WHEREAS, the parties hereto desire to enter into a contract for the Company to Market Research services, including the coordination and management of all Rider and Non-Rider Surveys as assigned to the Company by the City;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

CONTRACT

1. **INTENT & PURPOSE.** This Contract sets forth terms and conditions by which the Company shall provide market research services to the City. Said services shall be provided in accordance with:

- This Contract, including all exhibits, effective on the date set forth above; and
- The City's Request for Proposal #269-20150114001, issued August 5, 2015, as modified by all addenda, and including all attachments, exhibits and other such related documents ("RFP"); and
- The Company's Proposal, dated (INSERT DATE), including all attachments, exhibits and other such related documents ("Proposal"), as accepted and agreed to by the City.

This Contract shall control with respect to any conflict or inconsistencies in the documents set forth above, unless otherwise agreed to by the parties in writing. The following Exhibits are attached to this Contract and are incorporated into and made a part of this Contract by reference:

Exhibit A: Statement of Work
Exhibit B: FTA Terms

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City Contracting Requirements

Each reference to this Contract shall be deemed to include all Exhibits. Any conflict between language in an Exhibit or Appendix and language in the main body of this Contract shall be resolved in favor of the main body of this Contract. Each reference to (COMPANY NAME) in the Exhibits and Appendices shall be deemed to mean the Company.

2. **DESCRIPTION OF WORK**

2.1. **GENERAL DESCRIPTION OF SERVICES**

The City engages the Company as an independent contractor to advise the City by providing Market Research support. The Company shall perform the services as agreed to by the parties and specified below and in Exhibit A attached to this Contract and incorporated herein by reference (the "Work"), provided nothing herein shall be construed to release the Company from providing Market Research services to CATS.

3. **COMPENSATION.**

3.1. The compensation amount shall not exceed the following:

Base Amount: Task #1

The compensation amount for the Contract Period (Contract #) will not exceed (INSERT AMOUNT) invoiced at (INSERT AMOUNT) per month.

Option: Task #2

To be negotiated, but not to exceed _____

3.2 **INVOICES.** By the fifth (5th) business day of each month, the Company shall submit an invoice to the City detailing the services performed the previous month, including the number of hours worked by the Company broken down by day, Company employee, hourly rate and task performed. Invoices must be accompanied by any required monthly reports as outlined in Exhibit A, the Company's Proposal or as otherwise requested by the City. Failure to submit these reports will delay approval of the invoice. The City shall make reasonable effort to pay the Company within thirty (30) days of the receipt of an accurate, properly submitted, uncontested invoice. Copies of subcontractor invoices and other documents as may be required by the City shall support the monthly invoice to establish that the amounts are allowable.

3.2.1 The Company shall send one (1) original and three (3) copies of all invoices to:

City of Charlotte AP
Attention: CATS Service Development – Gail Batchelor
P.O. Box 37979
Charlotte, NC 28237-7979

3.2.2 Each invoice shall cite the Contract number, the specific task description for which payment is being requested, the time period covered by the invoice, and the amount of payment requested. Failure to provide this information on each and every invoice may result in a delay in payment. There shall be no interest

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City Contracting Requirements

penalties assessed against the City for late or partial payments.

- 3.2.3 As a condition of payment, the Company must invoice the City for Work within 60 days after such Work is performed. THE COMPANY WAIVES THE RIGHT TO CHARGE THE CITY FOR ANY SERVICES THAT HAVE NOT BEEN INVOICED TO THE CITY WITHIN 60 DAYS AFTER SUCH SERVICES WERE RENDERED.

3.3 EMPLOYMENT TAXES AND EMPLOYEE BENEFITS. The Company acknowledges and agrees that its employees and subcontractors are not employees of the City. The Company represents warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, workers' compensation, and other payments and deductions which are required by law in connection with provision of the Work.

4. REMOVAL, REPLACEMENT AND PROMOTION OF COMPANY PERSONNEL. The City will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to perform Work for the City. The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Company.

5. REPRESENTATIONS AND WARRANTIES OF COMPANY. The Company represents, warrants and covenants that:

5.1. The Company has the qualifications, skills and experience necessary to perform the Work described or referenced in this Contract.

5.2 The Work shall satisfy all requirements set forth in this Contract. Additionally, all Work performed by the Company pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff who have the necessary skills, experience and knowledge.

5.3 Neither the Work, nor any deliverables provided by the Company under this Contract, will infringe or misappropriate any patent, copyright, trademark, trade secret or other intellectual property rights of any third party. The Company shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this Contract.

5.4 In connection with its obligations under this Contract, the Company shall comply with all applicable federal, state, and local laws and regulations and shall obtain all applicable permits and licenses.

5.5 The Company is a legal entity duly incorporated, validly existing and in good standing under the laws of the state of Texas and is authorized and qualified to do business in North Carolina. The Company has all the requisite power and authority to execute, deliver and perform its obligations under this Contract, and the execution, delivery, and performance of this Contract have been duly authorized by the Company.

6. OTHER OBLIGATIONS OF THE COMPANY.

6.1 WORK ON THE CITY'S PREMISES. The Company will, whenever on the City's premises, obey all instructions and City policies that the Company is made aware of with respect to performing work on the City's premises.

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City Contracting Requirements

6.2 REGENERATION OF LOST OR DAMAGED DATA. If the Company loses or damages any data in the City's possession, the Company shall, at its own expense, promptly replace or regenerate such data from the City's machine-readable supporting material or obtain, at the Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.

6.3 REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES. In the event that the Company causes damage to the City's equipment or facilities, the Company shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to the Company's action.

7 TERM. The initial term of this Contract shall be through September 30, 2018. The City shall have the unilateral right to renew this Contract for two (2) one-year renewal options.

8 SUBSTITUTE PERFORMANCE. The parties acknowledge that time is of the essence in performing the Work and that, if the Company fails to perform the Work as set forth in this Contract, the City may, in its discretion, perform or cause to be performed some or all of the Work and doing so shall not waive any of the City's rights or remedies under this Contract, at law or in equity. The Company shall reimburse the City for all additional costs incurred by the City in exercising its rights to perform or cause to be performed some or all of the Work pursuant to this Section.

9 TERMINATION OF CONTRACT.

9.1 TERMINATION WITHOUT CAUSE. The City may terminate this Contract at any time without cause by giving written notice to the Company at least forty-five days before the date of termination specifying the date upon which such termination becomes effective. In the event the City terminates this Contract, the Company shall continue performing the Work until the termination date designated by the City in its termination notice. If the City terminates this Contract without cause, the City shall negotiate an equitable settlement of termination costs. Such costs shall not include non-project-specific overhead; punitive exemplary, special, indirect, consequential or incidental damages; or loss of anticipatory profit.

9.2 The City's obligation to make the payments required by this Section is conditioned upon the Company providing to the City, prior to the date of termination, all materials referenced in **Section 9.4 and Section 9.5**. Nothing in this Section shall be construed as limiting any right of the City in the event of a breach by the Company.

9.3 TERMINATION FOR DEFAULT. The City may terminate this Contract upon the Company's default of any material duty or obligation of the Company under this Contract and the Company's failure to cure to such default within thirty (30) calendar days of the City's written notice to the Company of such default. If the default is not capable of cure within said thirty (30) calendar days, the Company shall provide written notice to the City together with a schedule of cure within fifteen (15) calendar days of the City's notice of default, shall begin action to cure the default within said thirty (30) calendar days, and shall diligently proceed to cure the default. The City may accept the Company's schedule of cure, may make a written demand that the Company cure the default within a time period set by the City, or may terminate this Contract at the end of the thirty-day default period.

By giving written notice to the Company, the City may also terminate this Contract upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any other events of default):

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- (a) The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, the Company's proposal, or any covenant, agreement, obligation, term or condition contained in this Contract; or
- (b) The Company takes or fails to take any action which constitutes grounds for immediate termination under this Contract, including but not limited to failure to obtain or maintain the insurance policies, bonds, and endorsements as required by this Contract; or
- (c) The Company fails to fulfill or maintain in a timely and proper manner any obligations, duties or provisions of or under this Contract; or
- (d) The Company fails to consistently meet the reporting requirements of this Contract.

Any notice of default shall identify this Section of this Contract, cite the Section(s) the Company is not in compliance with and state the City's intent to terminate this Contract if the default is not cured within the specified period, if a cure period shall be applicable.

9.4 OBLIGATIONS UPON EXPIRATION OR TERMINATION. In addition to the documents provided in **Section 9.4**, upon expiration or termination of this Contract, the Company shall promptly return to the City: (i) all computer programs, files, documentation, media, related material and any other material and equipment that is owned by the City; (ii) all deliverables that have been completed or that are in process as of the date of termination; and (iii) a written statement describing in detail all work performed with respect to deliverables which are in process as of the date of termination. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information," as defined in **Section 17** of this Contract.

9.5 Transition Services upon Termination. Upon termination or expiration of this Contract, the Company shall cooperate with the City to assist with the orderly transfer of the services, functions and operations provided by the Company hereunder to another provider or to the City, as determined by the City in its sole discretion. Prior to termination or expiration of this Contract, the City may require the Company to perform and, if so required, the Company shall perform certain transition services necessary to migrate the work of the Company to another provider or to the City as described below (the "Transition Services").

9.6 Other Transition Services. Other Transition Services shall include but not be limited to the following:

Documents-- The Company shall provide the City and the new provider with copies of all leases, permits, licenses, and other relevant documents.

Record Retention - The Company shall retain all records associated with this Contract in its possession for a minimum of three (3) years after expiration or termination of the Contract.

9.7 NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS. Termination of this Contract shall not relieve the Company of the obligation to pay any fees, taxes or other charges then due to the City; to file any daily, monthly, quarterly or annual reports; or relieve the Company from any claim for damages previously accrued or then accruing against the Company.

9.8 OTHER REMEDIES. The remedies set forth in this Section and **Section 8** shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other remedies available under this Contract or at law or in equity.

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9.9 AUTHORITY TO TERMINATE. The following persons are authorized to terminate this Contract on behalf of the City: (a) the City Manager, any Assistant City Manager or any designee of the City Manager; (b) the Key Business Executive of the City Key Business Unit responsible for administering this Contract.

10 RELATIONSHIP OF THE PARTIES. The relationship of the parties established by 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 nor its agents or employees is the representative of the other for any purpose and neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.

11 CITY OWNERSHIP OF WORK PRODUCT.

11.1 The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, software, data, programming code and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively “the Intellectual Property”). The Company hereby assigns and transfers all rights in the Intellectual Property to the City. The Company further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain, and enforce the City’s rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. The Company hereby appoints the City as attorney-in-fact to execute all such assignments and instruments and agrees that its appointment of the City as an attorney-in-fact is coupled with an interest and is irrevocable.

11.2 The City grants the Company a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the Intellectual Property for other purposes without the City’s prior written consent, and shall treat the Intellectual Property as “Confidential Information,” as defined in this Contract.

11.3 The Company will treat as Confidential Information all data provided by or processed for the City in connection with this Contract. Such data shall remain the exclusive property of the City. The Company 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.

12 INDEMNIFICATION. To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the “Indemnitees” (as defined below) from and against any and all “Charges” (as defined below) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Work or any products or deliverables provided directly or indirectly to the City pursuant to this Contract (“Infringement Claims”); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; or (iii) arising from the Company’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, 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 or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that the Company or an employee or subcontractor of the Company is an employee of the City, including but not limited to claims relating to worker’s compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term “Indemnitees” means the City and each of the City’s officers, officials,

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employees, agents and independent contractors (excluding the Company); and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall 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 the Company is unable to comply with the preceding sentence within thirty (30) days after the City is directed to cease use of a product or service, the Company shall promptly refund to the City all amounts paid under this Contract.

This **Section 12** shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

13 INSURANCE. Throughout the term of this Contract, the Company shall comply with the insurance requirements described in this Section. In the event the Company fails to procure and maintain each type of insurance required by this Contract, or in the event the Company fails to provide the City with the required certificates of insurance, the City shall be entitled to terminate this Contract immediately upon written notice to the Company.

13.1 GENERAL REQUIREMENTS.

13.1.1 The Company shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this **Section 13**, and the City has approved such insurance. The Company shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and approved.

13.1.2 All insurance policies required by **Section 13.2** shall be with insurers qualified and doing business in North Carolina and recognized by the Secretary of State and the Insurance Commissioner’s Office. The Company shall name the City as an additional insured under the commercial general liability policy required by **Section 13.2.3**.

13.1.3 The Company’s insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Company’s operations under this Contract. The Company and each of its subcontractors shall and does waive all rights of subrogation against the City and each of the Indemnitees (as defined in **Section 12**).

13.1.4 The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible for any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.

13.1.5 Within three (3) business days after execution of this Contract, the Company shall provide the City with certificates of insurance documenting that the insurance requirements set forth in this **Section 13** have been met, and that the City will be given thirty (30) days’ written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Company shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Contract, and shall provide such certificates within five (5) business days after the City’s request. The City’s failure to review a certificate of insurance sent by

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or on behalf of the Company shall not relieve the Company of its obligation to meet the insurance requirements set forth in this Contract.

13.1.6 Should any or all of the required insurance coverage be self-funded/self-insured, the Company shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.

13.1.7 If any part of the Work under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements set forth in this **Section 13**, provided that the amounts of the various types of insurance shall be such amounts as are approved by the City in writing. However, this will in no way relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

13.2 **TYPES OF INSURANCE.** The Company agrees to purchase and maintain during the life of this Contract, with an insurance company acceptable to the City and authorized to do business in the State of North Carolina, the following insurance:

13.2.1 **Comprehensive General Liability.** Bodily injury and property damage liability as shall protect the Company and any subcontractor performing work under the Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 each occurrence and \$2,000,000 aggregate. This insurance shall include coverage for bodily injury, property damage, products, operations, personal and advertising injury, and contractual liability, assumed under the indemnity provision of this Contract.

13.2.2 **Business Automobile Liability.** If the company and/or subcontractors do not use commercial vehicles to provide goods or services under this Contract, personal auto liability may be provided at limits of not less than \$100,000 each person, \$300,000 each accident and property damage liability of \$50,000.

If the Company and/or subcontractors use commercial vehicles to provide goods or perform service under this contract, auto liability must be provided at a limit of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles.

If the Company and/or sub do not own any autos, but have employees using their autos on business, or lease autos to provide goods or perform service under this Contract, the Company and/or subcontractor must provide hired/non-owned auto liability coverage at a limit of not less than \$1,000,000 per occurrence aggregate.

13.2.3 **Workers' Compensation Insurance.** The Company shall meet the statutory requirements of the State of North Carolina and Employers Liability notwithstanding the provision above, the Company shall be liable for any dishonesty, fraudulent misconduct, willful or intentional tort, gross negligence committed or directed by Company or their agents, servants or employees; provided that the Company has failed to exercise reasonably prudent management procedures.

13.3 **Mutual Waiver of Subrogation.** The City and Company hereby agree to maintain insurance on their own respective property to the full insurable value thereof. The parties hereby mutually release, discharge and hold each other harmless from all claims and liabilities arising from or caused by fire or other casualty covered by the insurance required pursuant to this

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Section, to extent payment is made.

14 **DRUG-FREE WORKPLACE.** The City is a drug-free workplace employer. The Company hereby certifies that it will provide a drug-free workplace and comply with the rules and regulations set forth by the City in addition to those required by the Federal Transit Administration pursuant to \$9 CFR Part 655 during the performance of this Contract. The Company hereby certifies that it has or it will within thirty (30) days after execution of this Contract:

14.1 Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;

14.2 Establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Company's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;

14.3 Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlined above, and notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) days after such conviction;

14.4 Impose a sanction on, or require the satisfactory participation in a drug counseling, rehabilitation or abuse program by, an employee convicted of a drug crime;

14.5 Make a good faith effort to continue to maintain a drug-free workplace for employees; and

14.6 Require any party to which it subcontracts any portion of the Work under this Contract to comply with the provisions of this Section.

The Company certifies that it will comply with the City's Drug Free Workplace requirements as well as the rules and regulations required by the Federal Transit Administration at 49 CFR Part 655 during the performance of this Contract. A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Contract shall be grounds for suspension, termination or debarment.

15 **NOTICES AND PRINCIPAL CONTACTS.**

Any notice, consent or other communication required or contemplated by this Contract shall be in writing and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail, or by telefax to the intended recipient at the address set forth below:

For the Company:

For the City:

Phil Charneskie
Procurement Officer
Charlotte Area Transit System
600 East Fourth Street
Charlotte, NC 28202
PHONE: (704) 432-1121
E-MAIL: PCharneskie@charlottenc.gov

Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract

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shall further be copied to the following (in addition to being sent to the individuals specified above):

CATS Attorney
City Attorney's Office
600 East Fourth Street
Charlotte, NC 28202
Phone: (704) 432-1271
E-Mail: lflowers@ci.charlotte.nc.us

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice that is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

16 COMMERCIAL NON-DISCRIMINATION.

The City has adopted a Commercial Non-Discrimination Ordinance that is set forth in Section 2, Article V of the Charlotte City Code, and is available for review on the City's website (the "Non-Discrimination Policy"). As a condition of entering into this Contract, the Company agrees to comply with the Non-Discrimination Policy and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a City contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace.

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty (60) days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Company has used on City contracts in the past five years, including the total dollar amount paid by the Company on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

The Company agrees to provide to the City from time to time at the City's request, payment affidavits detailing the amounts paid by the Company to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time.

The Company understands and agrees that violation of this Commercial Non-Discrimination provision shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Company from participating in City contracts and other sanctions.

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17 **CONFIDENTIALITY**

17.1 **DEFINITIONS.** As used in this Contract, The term “Confidential Information” shall mean any information, in any medium, whether written, oral, or electronic, not generally known in the relevant trade or industry, that is obtained from the City or any of its suppliers, contractors or licensors which falls within any of the following general categories:

17.1.1 *Trade secrets.* For purposes of this Contract, trade secrets consist of information of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work, and business processes and procedures.

17.1.2 *Information of the City or its suppliers, contractors or licensors marked “Confidential” or “Proprietary.”*

17.1.3 *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.*

17.1.4 *Information contained in the City’s personnel files, as defined by N.C. Gen. Stat. 160A-168.* This includes all information gathered by the City about employees, except for that information which is a matter of public record under North Carolina law.

17.1.5 *Citizen or employee social security numbers collected by the City.*

17.1.6 *Computer security information of the City, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems.* This encompasses but is not limited to, passwords and security standards, procedures, processes, configurations, software and codes.

17.1.7 *Local tax records of the City that contain information about a taxpayer’s income or receipts.*

17.1.8 *Any attorney / client privileged information disclosed by either party.*

17.1.9 *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*

17.1.10 *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*

17.1.11 *Building plans of city-owned buildings or structures, as well as any detailed security plans.*

17.1.12 *Billing information of customers compiled and maintained in connection with the City providing utility services*

17.1.13 *Other information that is exempt from disclosure under the North*

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Carolina public records laws.

Categories **18.1.3** through **18.1.13** above constitute “Highly Restricted Information,” as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that, in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Contract.

17.2 RESTRICTIONS. The Company shall keep the Confidential Information in the strictest confidence in the manner set forth below:

17.2.1 The Company 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.

17.2.2 The Company 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 the Company having a need to know such Confidential Information for purpose of performing work contemplated by written agreements between the City and the Company, and who has executed a confidentiality agreement incorporating substantially the form of this Contract. The Company shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted Information to any third party without the City’s prior written consent.

17.2.3 The Company 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 by this Contract or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.

17.2.4 The Company shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.

17.2.5 The Company shall use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, vendors, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.

17.2.6 In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the Company shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

17.2.7 All materials which constitute, reveal or derive from Confidential

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Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information and, unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.

17.2.8 The Company shall restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.

17.2.9 The Company shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract. The Company shall have each of its employees who will have access to the Confidential Information sign a confidentiality agreement which provides the City and its vendors, licensors, subcontractors, employees and taxpayers the same level of protection as provided by this Contract.

17.3 EXCEPTIONS. The City agrees that the Company shall have no obligation with respect to any Confidential Information that the Company can establish:

17.3.1 Was already known to the Company prior to being disclosed by the City;

17.3.2 Was or becomes publicly known through no wrongful act of the Company;

17.3.3 Was rightfully obtained by the Company from a third party without similar restriction and without breach hereof;

17.3.4 Was used or disclosed by the Company with the prior written authorization of the City;

17.3.5 Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Company shall first give to the City notice of such requirement or request;

17.3.6 Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take reasonable steps to obtain an agreement or protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.

18 MISCELLANEOUS.

18.1 ENTIRE CONTRACT. This Contract and the documents enumerated in Section 1, all of which are incorporated herein by reference, constitutes the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.

18.2 AMENDMENT. No amendment or change to this Contract shall be valid unless in writing and signed by both parties to this Contract.

18.3 CONTRACT MONITORING. During the term of this Contract and for a period of three (3) years after termination or expiration of this Contract for any reason, the City shall have the right to audit the Company's compliance with the terms and conditions of this Contract, including but not

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limited to all provisions related to payment and performance. The City shall have the right to conduct such audits, either through its own staff or through an independent auditor, at such times as the City deems appropriate. The Company shall fully cooperate with all such audits, and shall make available for copying and inspection all books and records requested by the City or its designated agent. The Company shall further allow the City or its designated agent to inspect the Company's facilities in connection with such audits. 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. Notwithstanding the foregoing, in the event an audit reveals an overcharge to the City in excess of five thousand dollars (\$5,000) or a failure to perform services that has cost the City more than ten thousand dollars (\$10,000), the Company shall reimburse the City for all costs relating to the audit, including but not limited to internal staff hours and amounts paid to an outside auditor.

On demand of all books of account, computer files and other records, reports and financial statements of the Company in any way pertaining to the provision of the services described in this Contract shall be made available to the City for audit. Such records shall be clearly identified, readily accessible and be retained by the Company for at least three (3) years after the termination of this Contract. Reporting and record-keeping requirements for governmental entities are set forth in 49 C.F.R. Part 18. Reporting and record-keeping requirements for private non-profit and for-profit entities are set forth in OMB Circular A-110. The approved closeout of this Contract shall not alter these requirements.

18.4 LICENSING. Within twenty-four (24) hours of the City's request, the Company shall provide current notarized copies of all valid licenses and certificates required for performance of the Work at any time during the term of this Contract. Licenses and certificates required for this Contract include, by way of illustration and not limitation, the following: i) a valid North Carolina business license; ii) any additional licenses pertaining to or that may be required to be held by field professionals participating in the Work.

18.5 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS. The Company acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. The Company certifies and affirms the truthfulness and accuracy of any statement made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA-assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the Company further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Company to the extent the Federal Government deems appropriate.

The Company also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Company, to the extent the Federal Government deems appropriate.

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

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18.6 GOVERNING LAW, JURISDICTION AND VENUE. North Carolina law shall govern the interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). Any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.

18.7 BINDING NATURE AND ASSIGNMENT. This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

18.8 CITY NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES. The City shall not be liable to the Company, its agents, or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the City, or any other consequential, indirect or special damages or lost profits related to this Contract.

18.9 FORCE MAJEURE. The parties shall not be liable for performance under this Contract by virtue of Force Majeure Events (as defined below). The Company, however, shall take all reasonable precautions to ensure such events do not result in undue delay in performance under this Contract if such events are anticipated through reports of the media, emergency management officials or other similar sources. If the City determines, within its sole discretion, that the Company failed to take such reasonable precautions, the City may find such failure constitutes a default under this Contract and is grounds for an adjustment in the Company's monthly management fee or termination of this Contract. A Force Majeure Event is a failure or delay that satisfies all of the following conditions:

- (i) Could not have been prevented by reasonable precaution;
- (ii) Cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
- (iii) If, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.

Upon the occurrence of a Force Majeure Event, the Company shall notify the City immediately by telephone or other prompt means of its ability to operate in the immediate aftermath of such event. If the company is unable to operate immediately the Company shall advise the city of its contingency plans to resume operation as soon as practicable and safe. Such information shall be provided to the City in writing not less than two (2) days after the occurrence of such Force Majeure event. If any Force Majeure Event prevents the Company from performing its obligations for more than five (5) days, the City shall have the right to terminate this Contract by written notice to the Company.

Strikes, slowdowns, lockouts, walkouts, industrial disturbances and other labor disputes shall not constitute Force Majeure Events and shall not excuse the Company from the performance of its obligations under this Contract. Nothing in the preceding Force Majeure provisions shall relieve the Company of any obligation it may have regarding disaster recovery, whether under this Contract or at law.

18.10 SEVERABILITY. The invalidity of one or more of the phrases, sentences, clauses or

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City Contracting Requirements

sections contained in this Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

18.11 NO PUBLICITY. No advertising, sales promotion or other materials of the Company or its agents or representatives may identify or reference this Contract or the City in any manner absent the written consent of the City. Notwithstanding the foregoing, the parties agree that the Company may list the City as a reference in responses to requests for proposals and may identify the City as a customer in presentations to potential customers.

As a condition of entering into this Contract, the Company further agrees to refrain from the following absent the City's prior written approval:

- (i) Making any statement to the media regarding the subject matter of this Contract or the City's position on any issue relating to this Contract; or
- (ii) Making any statement to the media on any issue which is likely to cause the Company or City staff to be viewed as anything other than neutral with respect to the subject matter of this Contract or cast doubt on the competence or integrity of the City.

Failure to comply with this Section shall constitute a material breach and, without limiting any other remedies the City may have, shall entitle the City to terminate this Contract for default.

18.12 APPROVALS. All approvals or consents required under this Contract must be in writing.

18.13 INTEREST OF PUBLIC OFFICIALS. No member, officer, or employee of the City or of a local public body during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

18.14 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.

18.15 SURVIVAL OF PROVISIONS. All provisions of this Contract which by their nature and effect are required to be observed, kept, or performed after termination of this Contract, shall survive the termination of this Contract and remain binding thereafter including, but not limited to, the following

Section 3.3	"Employment Taxes and Employee Benefits"
Section 5	"Representations and Warranties"
Section 9	"Termination of Contract"
Section 11	"City Ownership of Work Product"
Section 12	"Indemnification"
Section 15	"Notices"
Section 17	"Confidentiality"
Section 18	"Miscellaneous"

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18.16 INTERESTS OF THE PARTIES. The Company covenants that its officers, employees and shareholders have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

18.17 NO BRIBERY. The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or attempted to bribe an officer or employee of the City in connection with this Contract.

18.18 HARASSMENT. The Company agrees to make itself aware of and to comply with the City's Harassment Policy. The City shall not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. The Company agrees that violation of this policy constitutes grounds for the City to terminate this Contract.

18.19 EQUAL ACCESS TO FACILITIES. In connection with the execution of this Contract, no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity pursuant to Title VI of the Civil Rights Act of 1964. In addition, all reasonable service accommodations as required under the Americans with Disability Act of 1990 shall be made in connection with the services provided pursuant to this Contract.

18.20 CHANGES IN CONTROL. In the event of a change in "Control" of the Company (as defined below), the City shall have the option of terminating this Contract for default by written notice to the Company. The Company shall notify the City within ten (10) days after it becomes aware that a change in Control will occur. As used in this Contract, the term "Control" shall mean the possession, direct or indirect, of either:

- (i) The ownership of or ability to direct the voting of, as the case may be, fifty-one percent (51%) or more of the equity interests, value or voting power in the Company; or
- (ii) The power to direct or cause the direction of the management and policies of the Company whether the ownership of voting securities, by agreement or otherwise.

18.21 FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES. The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Work. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws applicable to this Contract. Such laws will include, but shall not be limited to, workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the Work. In addition, if federal funds are allocated or the City determines that federal funding may be available for assisting with the costs of the BOD, the Company agrees to amend this Contract with any additional terms and conditions that are needed in order to comply with federal requirements.

18.22 TAXES. The Company shall pay all applicable federal, state and local taxes that may be chargeable against the performance of the Work.

18.23 CONSTRUCTION OF TERMS. Each of the parties has agreed to the use of the particular language of the provisions of this Contract and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

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18.24. E-Verify Requirements.

Contractor understands that "E-Verify" refers to the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with N.C. Gen. Stat §64-25(5). Employers must use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with N.C. Gen. Stat §64-26(a). Subcontractors must also comply with E-Verify and the Contractor will ensure compliance by any subcontractors hired by the Contractor.

IN WITNESS WHEREOF, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have caused this Contract to be executed on the date first written above.

WITNESSED:

(CONTRACTOR NAME)

BY: _____

BY: _____

TITLE: _____

TITLE: _____

WITNESSED:

CITY OF CHARLOTTE:

BY: _____

BY: _____

TITLE: _____

TITLE: _____

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

Deputy Finance Officer

Date

Section 7

City Contracting Requirements

EXHIBIT A

STATEMENT OF WORK

This Statement of Work is an Exhibit to and is incorporated into the Services Contract between the City of Charlotte and [INSERT COMPANY'S NAME] (the "Contract"). Capitalized terms not defined in this Exhibit shall have the meanings assigned to such terms in the Contract.

Description of Work:

EXHIBIT 1 – SCOPE OF SERVICES

Market Research Services - Overview

The Charlotte Area transit System (CATS) is committed to providing quality service, creating a positive image for CATS transit, ensuring that CATS transit is recognized as a value to the community, and increasing ridership. CATS recognizes the importance of understanding how customers rate satisfaction with all aspects of the customer journey, as well as understanding how non-riders rate CATS customer service. Conducting Market Research is a way to gain a measurement of these ratings. CATS uses market research survey results to compare performance ratings on service elements to importance ratings on those same elements to give CATS further insights into each market segment's receptions.

Therefore, CATS will conduct a market research study each year (or every other year) to measure customer and non-rider satisfaction with performance of customer service elements and perception of the importance of these customer service elements and other public transit issues in the Charlotte-Mecklenburg area.

Ownership

The City of Charlotte, D/B/A CATS, retains all rights and ownership of intellectual properties, therefore, any final agreement with vendors will include verbiage to Intellectual property rights. An example is provided below.

INTELLECTUAL PROPERTY.

CITY OWNERSHIP. The City shall have exclusive ownership of all intellectual property rights in all Customizations, Deliverables and other Work Product created by the Company or its subcontractors in connection with this Contract, including all the base source code, current Database schema, Table diagrams, indexes and any and all New Versions, New Releases, modifications, updates, enhancements and Documentation relating thereto, and further including but not limited to all copyrights, patents and trade secrets (collectively "City Intellectual Property"), provided that the City Intellectual Property shall not include the Company Software or modifications to the Company Software. The Company hereby assigns and transfers all rights in the City Intellectual Property to the City. The Company further agrees to execute and deliver such assignments and other documents as the City may later require to protect, maintain and enforce the City's rights as sole owner of the City Intellectual Property, including all rights under patent and copyright law.

The City Intellectual Property shall not include Deliverables created by the Company for other customers prior to the date of this Contract, provided that the Company shall notify the City in writing of any Deliverables that are not City Intellectual Property at the time it submits such Deliverables.

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City Contracting Requirements

COMPANY WILL NOT SELL OR DISCLOSE DATA. The Company will treat as Confidential Information under the Confidentiality Agreement all data provided by or processed for the City/CATS in connection with this Contract or use of the Software (including metadata). Such data shall remain the exclusive property of the City/CATS. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City/CATS in any manner except that contemplated by this Contract.

Required Features

The Customer Survey and Non-rider Survey must be nearly identical. Differences between the surveys will serve to ensure that the questions are relevant to each respective group with additional issues pertaining to that group. However, using nearly identical surveys will allow for comparisons between the two groups.

Critical Capabilities

To perform the services required in this RFP, the following capabilities are critical;

- Strict adherence to statistical methodologies
- Ability to distribute surveys to specified number of bus riders
- Ability to survey non-riders/general public via telephone interviewing or other means
- Ability to provide an adequate number of surveyors to ensure validity
- Ability to handle requests within specified time
- Ability to verify survey data and ensure quality of data at time of administration
- Overall validity of collected and reported data
- Ability to produce results in format requested
- Overall quality of survey, data, and results

On-Board Surveys

Current transit riders are the life blood of CATS. CATS is dedicated to operating a transit system that not only meets our customers' expectations, but exceeds them where possible. Understanding how well CATS is performing on the key elements of customer satisfaction with service delivery is essential to maintaining and growing ridership.

On-board surveying shall be conducted on every bus route. On-board surveying of each route will be staggered to cover each day of the week and all times of bus operation. The number of riders surveyed per route must be calculated to account for each route's percentage of the total ridership of all CATS services. The total number of surveyed riders must be statistically significant to the 95% confidence level. However, it is not necessary that individual route data be statistically significant.

On-board surveys must be written so that self-administration is possible and distributed via a random sampling method. Interviewers must be present to administer surveys to those passengers who would prefer to have the survey read aloud to them to limit self-exclusion. Spanish language versions of the questionnaire should also be available with interviewers prepared to answer questions pertaining to the Spanish language version (interviewers require rudimentary Spanish language skills). All refusals to take part in the survey must be noted and recorded with the survey results.

Non-rider Surveys (telephone)

Non-riders are an integral part of CATS Market Research as they provide general public responses and casual observer perceptions. CATS realizes that non-rider opinions are equally

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important as current CATS transit riders in adding value to the market research of the Charlotte region.

Non-rider surveys will be conducted via telephone interviews (or other acceptable means). Non-rider surveys will be conducted to cover Mecklenburg and surrounding counties. Once the number of non-rider surveys has been determined, the number of telephone surveys conducted should be based on the percentage of CATS transit riders whose commute originates within Mecklenburg County. The balance of non-rider surveys would then be based on the percentage of riders whose commute originates outside of Mecklenburg County distributed proportionally in Cabarrus, Gaston, Iredell, Union and York Counties. The total number of non-rider telephone surveys should be significant to the 95% confidence level. However, it is not necessary that individual county data be statistically significant.

Research Schedule

Completing a full scale on-board/non-rider research study every other year is not the only research within this scope of service. CATS will schedule a smaller scale research study in the years between the full-scale studies. CATS business is on-going with initiatives and goals established throughout the year. As these initiatives are implemented the results will need to be measured. Therefore, CATS will continue to schedule and task the consultant to conduct research projects.

- **Schedule:**

Full-Scale On-board and Non-rider surveying shall begin during the first full week of March each year. On-board interviewing will be conducted over a six week period and non-rider interviewing will be conducted over a four week period. However, no interviewing will be conducted during week of Easter. Additional time may be allowed as approved by CATS. Survey results shall be delivered to CATS no later than the first Friday of June. The results will be delivered to the Market Research Specialist at CATS Marketing and Communications Division, 600 East 4th Street, Charlotte, N.C.

- **Surveying**

Surveys must be administered according to the above sections titled “On-Board Surveys” and “Non-rider Surveys”, with no less surveys completed per route or per county to be statistically significant to the 95% confidence level. It is imperative that a statistically significant number of surveys be administered and completed with valid data. On-board and telephone surveys shall be checked for validity and completion at time of survey. Examples of invalid data are misspelled words or unclear handwriting. Examples of invalid data are skipped questions or no data. Incomplete data must be kept to a minimum by ensuring that a “don’t know” or “refused” as an option for each question. A complete survey is defined as a survey in which all questions have been answered with a valid response. If a survey respondent refuses to take either, the on-board or telephone survey, the surveyor shall record that response, as refusal percentage is important to the market research study

- **Results**

The market research study(s) shall be reported in two parts:

- 1) A written report highlighting key findings, interpretations, with charts and graphs, etc., and

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2) Statistical data tables (raw files).

Delivery of three (3) hard copies of the report and one (1) hard copy of each set of data tables as well as one (1) CD containing the report and data tables is required.

The report shall include:

- Executive Summary which will include customer (on-board) and non-rider (telephone) profiles and key findings.
- Detailed description of Methodology used to conduct the study, including margins of error.
- Separate analyses of customers and non-riders, to include;
 - * Demographics
 - * Performance and Importance Analyses
 - * Perceptions and attitudes towards transit
- Key element comparisons between customers and non-riders
- Performance vs. Importance gap analysis, i.e. gaps in service demand and delivery
- Identification of values and attributes CATS should emphasize in promoting and operating its services.
- Raw data tables, cross-referenced to show key data (i.e. data by demographics or data by route type)
- A comparison of current results to: 1) the benchmark study (2000) and 2) the most recent study conducted. In the case that it is not practice to compare these results (i.e. different research firm each year with a different statistical package used), data must be delivered in a format compatible to CATS data.
- Linear model analysis for customers and non-riders covering the following six Dimensions of Performance and their relationship to overall image and performance measures;
 - * Information
 - * Safety
 - * Cleanliness
 - * Customer Service
 - * Amenities/Comfort
 - * Bus Service-Operations/Planning

CATS requires the option of a presentation created by the consultant. This presentation shall cover the entire study and provide all significant information. If CATS exercises the option for a presentation, it will be scheduled for delivery not later than June 4, 2016.

- **Delays and Extensions**

Extensions of time for unforeseen or unavoidable delays shall only be granted by mutual consent of the parties involved, with CATS reserving the authority of approval for any extension. CATS must be notified, in writing, thirty (30) days prior to the original delivery date if a delay is anticipated.

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City Contracting Requirements

Section 8 Required Forms

REQUEST FOR PROPOSALS ACKNOWLEDGEMENT FORM

RFP #269-20150114001

The Contractor hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina **RFP #269-20150114001**, "Market Research Support Services". This form should be completed upon receipt of the City's Request for Proposals package and mailed or scanned and emailed to the City. Please send mail or email the completed Request for Proposals Acknowledgement Form to the attention of:

Phil Charneskie pcharneskie@charlottenc.gov

CATS-Procurement and Contract Section

Date: _____

Authorized Signature: _____

Title: _____

Company

Name: _____

Contact

Name:

Contact E-mail address: _____

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

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

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

Reason: _____

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

Reason: _____

Section 8 Required Forms

ADDENDA RECEIPT CONFIRMATION FORM

RFP #269-20150114001

Market Research Support Services

ADDENDUM #:

DATE:

I certify that this proposal complies with the General and Specific Specifications and Conditions issued by the City except as clearly marked in the attached copy of all addenda for this RFP. It is the responsibility of the Contractor to be sure they have reviewed all the addenda associated with this RFP.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

Section 8 Required Forms

PROPOSAL SUBMISSION FORM

RFP #269-20150114001

Market Research Support Services

This Proposal is submitted by:

Contractor: _____

Signed: _____

Name: (Typed) _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

It is understood by the Contractor that the City reserves the right to reject any and all proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and rebid this RFP. Proposals will be considered valid for one-hundred and eighty (180) calendar days from the date of Proposal submission.

Contractor

Date

Name (Please type or print name)

Authorized Signature

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Required Forms

COST PROPOSAL SUBMISSION FORM

RFP #269-20150114001
Market Research Support Services

This Cost Proposal is submitted by:

Contractor: _____

Signed: _____

Name: (Typed) _____

For Market Research work for envisioned in the Scope of Service, the City will remunerate the successful firm(s) in a fixed amount per hour.

Provide a blended hourly rate for Market Research Services: \$_____/hour.

Any additional charges/fees will be reimbursed at cost.

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Required Forms

COMMERCIAL NON DISCRIMINATION CERTIFICATION

Project: Market Research Support Services

Name of Contractor (Bidder): _____

The undersigned Bidder 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 discrimination as defined in Section 2.
2. For purposes of this certification *discrimination* means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or any other unlawful form of discrimination. Without limiting the foregoing, *discrimination* also includes retaliating against any person or other entity for reporting any incident of prohibited 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 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 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 submitted by the Bidder and terminate any contract awarded 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.
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 the Bidder in a legal or administrative proceeding alleging that the Bidder discriminated against its subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a proposal to the City, the Bidder 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.

By: _____
Signature of Authorized Official

Title: _____

Section 8 Required Forms

DEBARMENT CERTIFICATION (Prime)

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

This form is for the Bidder.

The Primary Participant (potential Contractor for a major third party Contract), _____
_____ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or 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 antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, of Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one (1) or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT) _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

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Required Forms

DEBARMENT CERTIFICATION (Subcontractor)

**CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT,
SUSPENSION, & OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**

This form is for any proposed subcontractor.

The Lower-Tier Participant (potential sub-Contractor under a major third party Contract), _____, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower-Tier Participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

IF LOWER-TIER PARTICIPANT (POTENTIAL CONTRACTOR UNDER A MAJOR THIRD PARTY CONTRACT) _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

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CONFLICT OF INTEREST

Except as may be identified and explained below, the undersigned hereby certifies that, no member of the Charlotte City Council, Mecklenburg Board of County Commissioners, Metropolitan Transit Commission, officer, employee, or former employee of the City, AND

no elected, appointed, or employed official or employee of the State of North Carolina or of a governing body, instrumentality, or political subdivision within the territory comprising Mecklenburg County, AND

no relative of persons described above, AND

no member of or delegate to the Congress of the United States has an interest whatsoever (regardless of how indirect and how remote that interest may be) in the Bidder's organization and/or in the proceeds of any contract and/or agreement which might be made between the Bidder and the City as result of the successful bid/proposal accompanied by this certification; no person who is or who during the past twelve (12) months has been a member of the Charlotte City Council, Mecklenburg Board of County Commissioners, Metropolitan Transit Commission, an officer or employee of the City is employed by or on behalf of the Bidder's organization; and that until acceptance of all work or services to be performed under any resulting contract or agreement, the Bidder shall not enter into any contract involving services or property, whether or not related to the performance of any resulting contract or agreement, with any of the aforementioned persons or with any business in which any such person has an interest, direct or indirect.

Except as identified and explained below and with City's prior approval the Bidder shall not engage in any activity, or accept any employment, interest or contribution that would create an appearance of a conflict of interest (personal or organizational) or reasonably appear to compromise the Bidder's judgment with respect to all work or services to be performed under any resulting contract or agreement.

The undersigned certifies that he is legally authorized by the Bidder to make the above representation, and that the representation is true to the best of his knowledge and belief and without deliberate omission of any inquiry which would to the best of his belief tend to change the above representation. The undersigned understands that any representation made knowing it to be false may be cause to disqualify the Bidder from competing for award for the contract at hand, may be cause to terminate the resulting contract and disqualify the Bidder from being awarded future contracts by the City.

The Bidder certifies that neither he nor any agent, representative, or other party acting on his behalf has offered or given any gratuity or gratuities, in the form of gifts, entertainment, or otherwise, to any director, officer, or employee of the City or of any person, firm, consultant or contractor retained by the City, with a view to securing the contract or of securing favorable treatment with respect to the award hereof, and the Bidder further certifies that neither he nor any agent, representative, or other party acting on his behalf will offer or give any such gratuity to any director, officer, or employee of the City or of any such consultant or contractor with a view to securing favorable treatment with respect to any change or amendment to the contract, or to any other action with respect to the performance hereof.

The Bidder further understands that in addition to submitting this certification at the time of bid/proposal submission to the City, the Bidder shall also be required to submit a similar certification at the time of execution of any resulting contract.

NOTE: THIS CERTIFICATION MUST BE SIGNED AND SUBMITTED WITH THE BID/PROPOSAL

Signature: _____
Title: _____ Date of Signing: _____
Firm or Corporate Name: _____
Address: _____

Telephone Number: _____

Section 8 Required Forms

E-VERIFY CERTIFICATION

Project: Market Research Support Services

Name of Company (Bidder): _____

This E-Verify Certification is provided to the City of Charlotte (the "City") by the company signing below ("Company") as a prerequisite to the City considering Company for award of a City contract (the "Contract").

1. Company understands that:
 - a. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies to enable employers to verify the work authorization of employees pursuant to federal law, as modified from time to time.
 - b. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers that transact business in this state and employ 25 or more employees in this state to: (i) verify the work authorization of employees who will be performing work in North Carolina through E-Verify; and (ii) maintain records of such verification (the "E-Verify Requirements").
 - c. North Carolina General Statute §160A-20.1(b) prohibits the City from entering into contracts unless the contractor and all subcontractors comply with the E-Verify Requirements.
2. As a condition of being considered for the Contract, Company certifies that:
 - a. If Company has 25 or more employees working in North Carolina (whether now or at any time during the term of the Contract), Company will comply with the E-Verify Requirements in verifying the work authorization of Company employees working in North Carolina; and
 - b. Regardless of how many employees Company has working in North Carolina; Company will take appropriate steps to ensure that each subcontractor performing work on the Contract that has 25 or more employees working in North Carolina will comply with the E-Verify Requirements.
3. Company acknowledges that the City will be relying on this Certification in entering into the Contract, and that the City may incur expenses and damages if the City enters into the Contract with Company and Company or any subcontractor fails to comply with the E-Verify Requirements. Company agrees to indemnify and save the City harmless from and against all losses, damages, costs, expenses (including reasonable attorney's fees) obligations, duties, fines and penalties (collectively "Losses") arising directly or indirectly from violation of the E-Verify Requirements by Company or any of its subcontractors, including without limitation any Losses incurred as a result of the Contract being deemed void.

Signature of Company's Authorized Representative _____
Date

Print Name and Title: _____

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Required Forms

LOBBYING CERTIFICATION

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 a member of the Metropolitan Transit Commission, Charlotte City Council, officer or employee of the Charlotte Area Transit System, or any elected, appointed, or employed official or employee of the State of North Carolina, 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, or the amendment or modification of any Federal Contract.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of the Metropolitan Transit Commission, Charlotte City Council, officer or employee of the Charlotte Area Transit System, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award of all subcontracts anticipated to be of a value of one hundred thousand dollars (\$100,000.00) or more and that all subcontractors 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 imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000.00) and not more than one hundred thousand dollars (\$100,000.00) for each such failure.

Signature: _____ Date: _____

Title: _____ Telephone No. (____) _____

Firm or Corporate Name: _____

Address: _____

Section 8 Required Forms

DISCLOSURE FORM TO REPORT LOBBYING

DISCLOSURE OF LOBBYING ACTIVITIES Complete this form to disclose lobbying activities pursuant to 31 U.S.C. §1352 (See below for public burden disclosure)		Approved by OMB 0348-0046
1. Type of Federal Action: <input type="checkbox"/> a. Contract <input type="checkbox"/> b. Grant <input type="checkbox"/> c. Cooperative agreement <input type="checkbox"/> d. Loan <input type="checkbox"/> e. Loan guarantee <input type="checkbox"/> f. Loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. Bid/offer/application <input type="checkbox"/> b. Initial award <input type="checkbox"/> c. Post-award	3. Report Type: <input type="checkbox"/> a. Initial filing <input type="checkbox"/> b. Material change For Material Change Only: year _____ quarter date of last report
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, <i>if known</i> :		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, <i>if known</i> :
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number <i>if applicable</i> :	
8. Federal Action Number, if known:	9. Award Amount, if known:	
10. a. Name and address of Lobbying Entity <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify:	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature value		

Section 8 Required Forms

14. Brief Description of Services Performed or to be Performed and Date(s) of service, including officer(s), employee(s), or Members contacted, for Payment Indicated in Item 11:	
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>	
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Information requested through this form is authorized by 31 U.S.C. §1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. §1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.	Signature: Print Name: Title: Telephone No.: _____ Date:
Federal Use Only:	Authorized for Local Reproduction Standard Form-LLL

Section 8

Required Forms

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal Action, or a material change to a previous filing, pursuant to the 31 U.S.C. §1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence and officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is an/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and Contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loan, and loan commitments.
8. Enter the most appropriate Federal Identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the Contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
 - a. Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - b. Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
10. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (pledged). Check all boxes that apply. If this is a material change report, enter the cumulated amount of payment made or planned to be made.

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11. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
12. Check the appropriate box(es) that apply. If other, specify nature.
13. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
14. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
15. The certifying officer shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average thirty (30) minutes per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Section 8 Required Forms

LIST OF SUBCONTRACTORS/SUPPLIERS - FORM A

Project DBE and non-DBE Subcontractor/Supplier Utilization Commitment

Federal Disadvantaged Business Opportunity Program. Note: This MUST be submitted with your Bid. Make copies as needed.

If you fail to meet the DBE Goal for this Project, you MUST complete FORM C and attach documentation of your Good Faith Efforts with your Bid package.

Bidders Name: _____ **Project Name:** _____

Below list **ALL SUBCONTRACTORS AND SUPPLIERS** (including DBEs) that you intend to use on this Contract. Continue listing on the supplemental form.

Subcontractor/Supplier's Name & Address	Contact Person & Phone #	Age of Firm	Description of Work	NAICS Code	NCDOT Reporting #	Total Projected \$	% of Bid Amount
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							

I acknowledge that I have confirmed the certification of each DBE listed above on <https://partner.ncdot.gov/vendorDirectory/default.html>

Total DBE Utilization \$ Total Bid Amount \$ Percent DBE Utilization (Total DBE Utilization/Total Bid Amount) %

Section 8 Required Forms

Please read the following “Certification” statement before signing. “The undersigned certifies that he/she has read, understands, and agrees to be bound by the DBE Program Requirements, including these accompanying FORM(s) A, and the other terms and conditions in the Notice to Bidders. The undersigned further certifies that he/she is legally authorized by the Bidder to make the statements and representations and that said statements and representations are true and correct to the best of his/her knowledge and belief. It is the intent by the undersigned to enter into formal agreement(s) with subcontractors/suppliers named on this Form conditioned upon execution of a contract with the City. All DBE subcontractors/suppliers must provide proof of their DBE status or receive confirmation of their status from the City’s Civil Rights Officer prior to contract award. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder knowing them to be false, or if there is a failure of the successful Bidder (i.e., the Contractor) to implement any of the stated agreements, intentions, objectives, goals, commitments and substitutions set forth herein without prior approval by the Civil Rights Officer or a designee, then in any of such events the Contractor's act or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the City to terminate the contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the City may have for other defaults under the contract, or otherwise. Additionally, the Contractor will be subject to the loss of any future contract awards”.

Signature of Authorized Official

Printed Name

Title

Submittal Date

Section 8 Required Forms

LIST OF SUBCONTRACTORS/SUPPLIERS - FORM A

Project DBE and non-DBE Subcontractor/Supplier Utilization Commitment

Federal Disadvantaged Business Opportunity Program. Note: This MUST be submitted with your Bid. Make copies as needed.

If you fail to meet the DBE Goal for this Project, you MUST complete FORM C and attach documentation of your Good Faith Efforts with your Bid package.

Bidders Name: _____

Project Name: _____

Subcontractor/Supplier's Name & Address	Contact Person	Age of Firm	Description of Work	NAICS Code	NCDOT Reporting #	Total Projected \$	% of Bid Amount
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							
Annual Gross Receipts: <input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000 - \$1M <input type="checkbox"/> \$1-2M <input type="checkbox"/> \$2-5M <input type="checkbox"/> Over \$5M							

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INSTRUCTIONS TO COMPLETE FORM A

Note: A correctly completed Form A will list **all subcontractors and suppliers** a bidder plans to directly utilize. Each company who will have 2nd or 3rd tier subcontractors or suppliers should submit individual Form A's. Only DBEs certified by NCDOT may be submitted to meet the contract goal.

Form A- Instructions to fill out form

1. **Bidder's Name** is the name of the company that will be entering into contract agreements or purchasing supplies and materials from the subcontractors listed in the document
2. **Project Name** is the name of the is listed on the solicitation
3. **Name and address** of each subcontractor/supplier that is intended to do work on the project :
 - a. **"Annual Gross Receipts range"** must be identified for each company according to the ranges provided
4. **Contact Person and Phone Number** (plus email address if available).
5. **Age of the Firm** approximate age of firm
6. **Description of the Work** or supplies to be provided by the subcontractor
7. **NAICS Code** (if available) for the work provided by the subcontractor
8. **NCDOT Reporting number #** (specifically for the DBE subcontractors and suppliers).
9. **Total Project \$** dollars that are projected to be spent with each subcontractor/supplier (Dollars committed to DBE subcontractor)
10. **% of the total Bid Amount** is the percent of dollars to be spent with each subcontractor or supplier.
 - a. Calculation = **Total Projected \$** divided by **Total Bid Amount**
 - b. DBE supplier utilization may only count 60% toward DBE goal
 - c. Total Bid Amount includes the contingency amount
11. Your company must **acknowledge** that you have **confirmed** that **each DBE submitted is certified** as such in the **NCDOT database** <http://partner.ncdot.gov/VENDORDIRECTORY/default>.
12. Print additional copies of the extended Form- A to list all subcontractors or suppliers which do not fit on one page. On each sheet the company with subcontractors and suppliers must **Print**:
 - a. The company name under **"Bidders Name"**
 - b. The solicitation title next to **"Project Name"**.

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13. The project totals including for all vendors listed on a company's Form A and extended Form A's must be listed on the 1st page including the following.
 - a. The **Total DBE Utilization** in \$ dollars
 - b. The **Total Bid Amount** in \$ dollars
 - c. **Percentage %** of total **DBE Utilization** (Total DBE Utilization/Total Bid Amount including contingency)
14. **Read the "Certification statement"** before signing your Form A.
15. An **Authorized Official** from your company must sign the Form. That official must then **Print**:
 - a. **Name**
 - b. **Title**
 - c. **Submittal Date.**
16. Additional questions on filling relating to the completion of the form should be directed to the contact provided included with the solicitation.

5.0 FEDERAL TRANSIT ADMINISTRATION CLAUSES

1.1 FEDERAL APPLICABILITY

The Work to be performed under this Contract will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this Contract. The most recent of such Federal requirements, including any amendments made after the execution of this Contract, shall govern this Contract, unless the Federal Government determines otherwise. This Section identifies the Federal requirements that are applicable to this Contract. The Contractor is responsible for complying with all applicable provisions.

To the extent applicable, the Federal requirements contained in the most recent version of the FTA Master Contract, including any certifications and contractual provisions required by any Federal statutes or regulations referenced therein to be included in this Contract, are deemed incorporated into this Contract by reference and shall be incorporated into any subcontract or subcontract executed by the Company pursuant to its obligations under this Contract. The Contractor and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Contract then in effect and with all applicable Federal, State and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the Work to be performed under this Contract. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests, which would cause the City to be in violation of the FTA terms and conditions.

1.2 FLY AMERICA

The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with §5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. §40118, and U.S. GSA regulations, "Use of U.S. Flag Air Carriers," 41 CFR §§ 301-10.131 through 301-10.143.

This requirement extends to all third party contractors and their contracts at every tier and this clause shall be included in all such subcontracts.

1.3 Reserved

1.4 Reserved

1.5 Reserved

1.6 ENERGY CONSERVATION

The Contractor agrees to comply with the 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, 42 U.S.C. §§ 6321, *et seq.*

This requirement extends to all third party contractors and their contracts at every tier and this clause shall be included in all such subcontracts.

1.7 CLEAN WATER

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251, *et seq.* The Contractor agrees to report each violation

to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding one hundred thousand dollars (\$100,000.00) financed in whole or in part with Federal assistance provided by FTA.

1.8 LOBBYING

The Contractor agrees to comply with the provisions of Title 31, U.S.C. 1352, The Byrd Anti-Lobbying Amendment, as in force or as it may hereafter be amended. The Contractor and all subcontractor tiers shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the City. The Contractor shall make such disclosure on the disclosure form included in the Project Manual.

The Contractor further agrees to secure like undertakings from all subcontractor tiers whose subcontracts are expected to be of a value of one hundred thousand dollars (\$100,000.00) or more.

1.9 ACCESS TO RECORDS & REPORTS

The City is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the City, the FTA Administrator, the Comptroller General of the U.S. or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any Project Management Oversight (PMO) Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)(1), which is receiving Federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

Where any City which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)(1) through other than competitive bidding, the Contractor shall make available records related to the Contract to the City, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

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

1.10 FEDERAL CHANGES

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

This requirement extends to all third party contractors and their contracts at every tier and this clause shall be included in all such subcontracts.

1.11 CLEAN AIR

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding one hundred thousand dollars (\$100,000.00) financed in whole or in part with Federal assistance provided by FTA.

1.12 RECYCLED PRODUCTS

The Contractor agrees to comply with all the requirements of the Resource Conservation and Recovery Act (RCRA) §6002, as amended and now cited as 42 U.S.C. 6962, including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

This requirement extends to all third party contractors and their contracts at every tier.

1.13 Reserved

1.14 CONTRACT WORK HOURS & SAFETY STANDARDS ACT

- (1) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in the paragraph (1) of this section, in the sum of ten dollars (\$10.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in the paragraph (2) of this section.

(4) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in the paragraphs (1) through (4) of this section.

A. In addition to the clauses contained in Paragraphs (1) through (4) herein, the Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Contractor or subcontractor shall make the records required under this section available for inspection, copying, or transcription by authorized representatives of the City, the FTA, or the Department of Labor, insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the City and the Department of Labor, and the Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

1.15 NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

1.16 PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS & RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801, *et seq.* and US-DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA-assisted project for which this Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government

reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

1.17 GOVERNMENT-WIDE DEBARMENT & SUSPENSION

This Contract is a covered transaction for purposes of 2 CFR Part 1200.220, and 2 CFR Part 180.200, which replaces the requirements and guidelines of the previously controlling 49 CFR Part 29. As such, the Contractor is required to verify that neither it, nor its principals (as defined at 2 CFR 180.995) or affiliates (as defined at 2 CFR 180.905) is excluded (as defined at 2 CFR 180.940) or disqualified (as defined at 2 CFR 180.935). The Contractor, pursuant to 2 CFR 180.330(a) – (b), must also include a term or condition in lower-tier transactions requiring lower-tier participants to comply with requirement in subpart C in 2 CFR 180, and require lower-tier participants to pass the requirement to comply with 2 CFR subpart C to each person with whom the lower-tier participant enters into a covered transaction at the next lower tier. Subpart C of 2 CFR 180 requirements (Contractor and lower-tier participants must comply):

Verification

The Contractor and all lower-tier participants must verify that the person with whom the Contractor or lower-tier participant intends to do business with is not excluded, pursuant to the definition set out in 2 CFR 180.940, or disqualified, pursuant to the definition in 2 CFR 180.935. The Contractor and all lower-tier participants may do this by either: (a) checking the Excluded Parties List System (EPLS), found at <https://www.sam.gov/portal/public/SAM/>, (b) collecting the certification form from the lower-tier participant, or (c) adding a clause or condition to the covered transaction with that lower-tier participant.

Disclosing Information

The Contractor and all lower-tier participants, before entering into a covered transaction, must notify the higher-tiered participant if they are presently excluded or disqualified, or any of their principals are excluded or disqualified, pursuant to 2 CFR 180.355.

1.18 CIVIL RIGHTS REQUIREMENTS

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, §303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, §202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. §5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity: The following equal employment opportunity requirements apply to this Contract:

Race, Color, Creed, National Origin, Sex

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

Age

In accordance with §4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Disabilities

In accordance with §102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

1.19 INCORPORATION OF FTA TERMS

The provisions of this Contract include, in part, certain standard terms and conditions required by the US-DOT, whether or not expressly set forth in the Contract provisions. All applicable contractual provisions required by US-DOT, as set forth in FTA Circular 4220.1F or Federal law, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests, which would cause the City to be in violation of the FTA terms and conditions.

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

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

Any adjustment to the Contractor's compensation under the Contract shall include only costs and other compensation that are allowable, allocable and reasonable as provided elsewhere herein, or otherwise by law, and that are allowable, allocable and reasonable under the Contract Cost Principles of the Federal Acquisition Regulations (F.A.R.) System, 48 CFR, Ch.1, Pt.31, and any implementing guidelines or regulations issued by the said Administration.

ARTICLE 2: DISADVANTAGED BUSINESS ENTERPRISE

City Of Charlotte: Charlotte Area Transit System (CATS)
DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT PROVISIONS & FORMS

THE DBE GOAL FOR THIS CONTRACT IS: 0.0%

This Contract is subject to the requirements of 49 C.F.R. Part 26 *Participation by DBE in Department of Transportation Financial Assistance Programs.*

- (a) Policy. As a recipient of funds from the Federal Transit Administration (“FTA”), the City has established a Disadvantaged Business Enterprise Program (“DBE Program”) in accordance with regulations of the U.S. Department of Transportation (“DOT”), 49 C.F.R. Part 26 and has committed to ensuring compliance on all FTA-funded projects through monitoring, reporting, and goal-setting.

The DBE Program is incorporated into and made a part of the Bidding Documents and resulting Contract. Copies of the DBE Program may be obtained online at:

<http://charmeck.org/city/charlotte/cats/about/Business/procurement/Pages/dbesbe.aspx>;

under “City of Charlotte’s DBE Program (document)” on the www.ridetransit.org “Doing Business with CATS as a DBE/SBE” page.

It is the policy of the City to ensure that DBEs, as defined in 49 C.F.R. Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. The City’s objectives are as follows:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The CATS Civil Rights Officer has been designated as the DBE Liaison Officer (“DBELO”). In that capacity, he/she is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the DOT.

- (b) DBE Assurances. The Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the

termination of this Contract or such other remedy as the City deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

1. The paragraph above shall be included in each subcontract the Contractor signs with any subcontractor, both DBE or non-DBE subcontractors.
- (c) Prompt Payment. The Contractor is required to pay each subcontractor (DBEs and non-DBEs) under this Contract for satisfactory performance of its contract no later than seven (7) days from receipt of each progress payment or final payment the full amount the Contractor receives from the City for each subcontractor's work and materials under the subcontract. Any delay or postponement of payment from the above referenced time frame may result in liquidated damages and/or sanctions as stipulated in Contract Documents. Exceptions may occur only for good cause following written approval by the City.

The Contractor is required to return retainage payments to each subcontractor within seven (7) after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City.

1. The paragraphs above apply to both DBE and non-DBE subcontractors.
 2. For purposes of this Section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When the City has made incremental acceptance of a portion of the Contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- (d) DBE Goal. DBE firms and small businesses shall have an equal opportunity to participate in this Contract. The Contractor shall adhere to the following:
1. Take affirmative steps to use as many of the race-neutral means of achieving DBE participation identified in 49 CFR 26.51(b) as practicable to afford opportunities to DBEs to participate in this Contract. A race-neutral measure is one that is, or can be, used to assist all small businesses.
 2. A DBE firm must perform commercially useful function, i.e. must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work; and
 3. A DBE firm must be certified by NC-DOT before its participation is reportable under paragraph (d) below.
- (e) Report to the City. Even though no separate goal has been set for this Contract, the Bidder must submit its proposed DBE (if any) and non-DBE utilization on **LIST OF SUBCONTRACTORS/SUPPLIERS – FORM A** listing ***ALL*** subcontractors and suppliers that will be providing goods or services under the Contract. This form is to include all subcontractors the Bidder proposes to use, not just the DBE subcontractors (if any). Bidders are required to list the names, contact information, annual gross receipts, age of firm, respective scope of work/service to be performed, NAICS Code, NCDOT Reporting Number, the dollar values of each

subcontract that the Bidder proposes for participation in the Contract work, and the dollar value of total DBE participation for the Contract. **LIST OF SUBCONTRACTORS/SUPPLIERS – FORM A** is attached in Section **6.0 BID RESPONSE PACKAGE**.

B.

C. Even though no separate goal has been set for this Contract, the Contractor shall report its DBE participation obtained through race-neutral means throughout the period of performance. The Contractor shall submit a monthly report on DBE Participation with each request for payment from the City. Such information shall be provided for both DBE and non-DBE subcontractors on **MONTHLY PAYMENT TO SUBCONTRACTORS/SUPPLIERS – FORM B**. Failure to submit this form with every request for payment will result in delays in payment. The **MONTHLY PAYMENT TO SUBCONTRACTORS/SUPPLIERS – FORM B** is attached in Section **6.0 BID RESPONSE PACKAGE**.

(f) Records. On request, the Contractor shall make available for inspection, and assure that its subcontractors make available for inspection:

1. Records of prompt payments made in accordance with paragraph (c) above;
2. The names and addresses of DBE subcontractors, vendors, and suppliers under this Contract;
3. The dollar amount and nature of work of each DBE subcontractor;
4. The social/economic disadvantaged category of the DBE firms, i.e. Black American, Hispanic American, Native American, Subcontinent Asian American, Asian Pacific American, Non-Minority Women, or Other; and
5. Other related materials and information.

(g) The Contractor must promptly notify the City whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor shall also promptly notify the City of a DBE subcontractor's inability or unwillingness to perform and provide reasonable documentation. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of City.

(h) A directory of DBEs may be accessed at the following website:

<https://partner.ncdot.gov/VendorDirectory/default.html>