

REQUEST FOR PROPOSALS

DEMOLITION AT 2403 WILKINSON BOULEVARD

RFP # 269-2010-117



**CITY OF CHARLOTTE
NORTH CAROLINA**

SEPTEMBER 23, 2009

REQUEST FOR PROPOSALS
RFP # 269-2010-117
DEMOLITION AT 2403 WILKINSON BOULEVARD

SEPTEMBER 23, 2009

Dear Service Provider:

The City of Charlotte, located in the State of North Carolina, is now accepting Proposals for DEMOLITION AT 2403 WILKINSON BOULEVARD. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the "RFP"). Please review them carefully.

A Non-Mandatory Pre-Proposal Conference/Site Visit for the purpose of reviewing the RFP and answering questions regarding the Services will be held on OCTOBER 6, 2009 at 10:00 a.m. at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, 9th Floor Small Conference Room. Please bring a copy of the RFP with you at that time. All Service Providers should return a completed Request For Proposals Acknowledgement Form (see Section 7, Form One) by the date stated in the schedule in Section 2.1 of this RFP.

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Genetta Carothers at gcarothers@ci.charlotte.nc.us.

All Proposals are due to the Business Support Services, Procurement Services Division, 9th Floor, CMGC 600 East Fourth Street, Charlotte, North Carolina 28202, no later than **OCTOBER 19, 2009 at 2:00 p.m.**

One electronic copy of the Proposal on a CD in a searchable format such as MS Word or Adobe Acrobat and one bound original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus two (2) copies of your Proposal must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals

Attention: Genetta Carothers

Name of Company Submitting Proposal

DEMOLITION AT 2403 WILKINSON BOULEVARD

RFP # 269-2010-117

RFP questions must be directed to Genetta Carothers, Business Support Services, Procurement Services Division, per the enclosed instructions in Section 2.3. The City is an equal opportunity purchaser.

Sincerely,

Kay Elmore
Procurement Services Division Manager

cc: Genetta Carothers, Procurement Services Division
Scott Edwards, Neighborhood and Business Services
Mike Jenkins, Neighborhood and Business Services
RFP file

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Section 1

Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the City to determine which Service Provider and Proposed Solution will best meet the City's needs.

1.2. Definitions.

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

<i>ACM:</i>	Refers to asbestos-containing materials.
<i>AHERA:</i>	Refers to Asbestos Hazard Emergency Response Act.
<i>Acceptance:</i>	Refers to receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria set forth in the Contract.
<i>Affiliates:</i>	Refers to all departments or units of the City and all other governmental units, towns, boards, committees or municipalities for which the City processes data or performs services that involve the Deliverables or Services.
<i>Contract:</i>	Refers to a written agreement executed by the City and Service Provider for all or part of the Services covered by this RFP.
<i>City:</i>	Refers to the City of Charlotte, North Carolina.
<i>City Project Manager:</i>	Refers to a specified City employee representing the best interests of the City for this Project.
<i>Company:</i>	Refers to a Service Provider that has been selected by the City to provide the Services required by this RFP.
<i>Company Project Manager:</i>	Refers to a specified Company employee representing the best interests of the Company for this Project.
<i>County:</i>	Refers to Mecklenburg County, North Carolina.
<i>Deliverables:</i>	Refers to all tasks, reports, information, designs, plans and other items, which the Company is required to complete and deliver to the City in connection with this Contract.
<i>Documentation:</i>	Refers to all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the Deliverables or Services or any component thereof, and which are published or provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the Deliverables or Services.
<i>EPA:</i>	Refers to Environmental Protection Agency.
<i>Environmentally Preferable Products:</i>	Refers to products that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw materials acquisition,

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	production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.
<i>Evaluation Committee:</i>	Refers to a committee, as appointed by the City, responsible for determining the best Service Provider for the Services described in this RFP.
<i>Project:</i>	Refers to the procurement process to choose a Service Provider to perform DEMOLITION AT 2403 WILKINSON BOULEVARD for the City.
<i>Project Plan:</i>	Refers to the detailed plan for delivery of the Services as described in Section 3, in the form accepted in writing by the City in accordance with the terms of this RFP and resultant Contract.
<i>Proposal:</i>	Refers to the Proposal submitted by a Service Provider for the Services as outlined in this RFP.
<i>Recyclability:</i>	Refers to products or materials that can be collected, separated or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.
<i>Recycled Material:</i>	Refers to material and by-products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
<i>Services:</i>	Refers to the DEMOLITION AT 2403 WILKINSON BOULEVARD as requested in this RFP.
<i>Service Provider:</i>	Refers to a company that has interest in providing the Services required by this RFP.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Deliverables and Services which are set forth or referenced in: (i) this RFP; (ii) the Documentation; and (iii) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Deliverables or Services.
<i>Work Product:</i>	Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Service Provider in connection with this RFP, and all

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partial, intermediate or preliminary versions of any of the foregoing.

1.3. Accuracy of RFP and Related Documents.

The City assumes no responsibility for conclusions or interpretations derived from the 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 provided by the City through the issuance of addenda. In no event may a Service Provider rely on any oral statement by the City or its agents, advisors or consultants.

Should a Service Provider find discrepancies or omissions in this RFP or any other documents provided by the City, the Service Provider should immediately notify the City of such potential discrepancy in writing, and a written addendum may be issued if the City determines clarification necessary. Each Service Provider requesting an interpretation will be responsible for delivering such requests to the City's designated representative as directed in Section 2 of this RFP.

1.4. City's Rights and Options.

The City reserves the following rights, which may be exercised at the City's sole discretion:

- 1.4.1. To supplement, amend, substitute or otherwise modify this RFP at any time;
- 1.4.2. To cancel this RFP with or without the substitution of another RFP;
- 1.4.3. 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;
- 1.4.4. To issue additional requests for information;
- 1.4.5. To require one or more Service Providers to supplement, clarify or provide additional information in order for the City to evaluate the Proposals submitted;
- 1.4.6. To conduct investigations with respect to the qualifications and experience of each Service Provider;
- 1.4.7. To waive any defect or irregularity in any Proposal received;
- 1.4.8. To reject any or all Proposals;
- 1.4.9. To share the Proposals with City employees other than the Evaluation Committee or City advisory committees as deemed necessary;
- 1.4.10. To award all, none, or any part of the Services that is in the best interest of the City, with one or more of the Service Providers responding, which may be done without or without re-solicitation.
- 1.4.11. To discuss and negotiate with selected Service Provider(s) any terms and conditions in the Proposals including but not limited to financial terms; and
- 1.4.12. To enter into any Contract deemed by the City to be in the best interest of the City, with one or more of the Service Providers responding.

1.5. Expense of Submittal Preparation.

The City accepts no liability for the costs and expenses incurred by the Service Providers 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 Service Provider that enters into the procurement process

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shall prepare the required materials and submittals at its own expense and with the express understanding that the Service Provider cannot make any claims whatsoever for reimbursement from the City for the costs and expenses associated with the procurement process.

1.6. Proposal Conditions.

The following terms are applicable to this RFP and the Service Provider's Proposal.

1.6.1. 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 Service Provider execute a Contract. No recommendations or conclusions from this RFP process concerning the Service Provider shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

1.6.2. Right to Terminate Discussions.

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

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

Each Service Provider 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."**

1.6.4. 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. including Personal Identification information to include, but not be limited to, social security numbers, bank account numbers, and drivers license numbers. After the Proposal due date, 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 Service Provider 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 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 Service Provider must take the following precautions: (a) any trade secrets submitted by a Service Provider should be submitted in a separate, sealed envelope and on separate CD for electronic files, marked **"Trade Secret—Confidential and Proprietary Information—Do Not Disclose Except for the Purpose of**

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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 and on each page of the electronic file.

In submitting a Proposal, each Service Provider 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 or appointed by the City to assist in the evaluation process.

Furthermore, each Service Provider 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 Service Provider has designated as a trade secret. **Any Service Provider that designates its entire Proposal as a trade secret may be disqualified.**

1.6.5. Prohibited Discrimination.

The City is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this section, Prohibited Discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, Prohibited Discrimination also includes retaliating against any person, business or other entity for reporting any incident of Prohibited Discrimination. It is understood and agreed that not only is Prohibited Discrimination improper for legal and moral reasons, Prohibited Discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the City and others. As a condition of entering into any Contract, the Service Provider shall represent, warrant and agree that it does not and will not engage in or condone Prohibited Discrimination. Without limiting any rights the City may have at law or under any other provision of any Contract, it is understood and agreed that a violation of this provision constitutes grounds for the City to terminate any such Contract.

1.6.6. 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.

1.6.7. 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.

1.6.8. Reservation of Right to Amend RFP.

The City reserves the right to amend this RFP at any time during the process, if it believes that doing so is in the best interests of the City. Any addenda will be posted to the Internet at www.ips.state.nc.us, bid# 269-2010-117. Service Providers are required to acknowledge their receipt of each addendum by including the Addenda Receipt Confirmation Form set forth in Section 7, Form Two with their Proposal.

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- 1.6.9. Additional Evidence of Ability.
Service Providers shall be prepared to present additional evidence of experience, qualifications, abilities, equipment, facilities, and financial standing. The City reserves the right to request such information at any time during the Proposal evaluation period for this RFP.
- 1.6.10. No Collusion or Conflict of Interest.
By responding to this RFP, the Service Provider shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Service Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.
- 1.6.11. Proposal Terms Firm and Irreversible.
The signed Proposal shall be considered a firm offer on the part of the Service Provider. The City reserves the right to negotiate price and Services. All Proposal responses (including all statements, claims, declarations, prices 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 Service Provider chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election. Any false or misleading statements found in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.
- 1.6.12. Proposal Binding for 120 Days.
Each Proposal shall contain a statement to the effect that the Proposal is a firm offer for one hundred twenty (120) calendar days from the date of the opening. This statement must be signed by an individual authorized to bind the Service Provider and include their name, title, address, and telephone number. All prices quoted shall be firm and fixed for the full Contract period. The City shall have the option to accept subject to exception by Contract.
- 1.6.13. SBO Program.
It is the policy of the City of Charlotte in accordance with SB 1336 as approved by the NC General Assembly on SEPTEMBER 23, 2002, that Small Business Enterprises shall have the maximum opportunity to compete for and participate in the performance of contracts issued on behalf of the City of Charlotte. The City further requires that its contractors agree to take all the necessary and responsible steps to ensure that Small Business Enterprises have the maximum opportunity to participate as subcontractors for contractors issued by City of Charlotte, Neighborhood and Business Services, Economic Development Division.
- 1.6.14. Subcontracting.
The Service Provider given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Service Provider shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The City retains the right to approve all subcontractors.
- 1.6.15. 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

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services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Service Providers regardless of race, color, religion, age, sex, and national origin or disability.

- 1.6.16. Use of City's Name.
No advertising, sales promotion or other materials of the Service Provider or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.
- 1.6.17. Withdrawal for Modification of Proposals.
Service Providers may change or withdraw their Proposals at any time prior to the Proposal due date; however, no oral modifications will be allowed. Only telegrams, letters, or other 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.**"
- 1.6.18. No Bribery.
In submitting a response to this RFP, each Service Provider certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract.
- 1.6.19. Exceptions to the RFP.
Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Sample Contract language included as Section 8. An "exception" is defined as the Service Provider's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Sample Contract language included as Section 8. All exceptions taken must be identified and explained in writing on a separate sheet of paper in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Service Provider 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 Service Provider's solution, must be described in detail.
- 1.6.20. Fair Trade Certifications.
By submission of a Proposal, the Service Provider certifies that in connection with this procurement:
- The prices have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with anyone;
 - Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Service Provider and will not knowingly be disclosed by the Service Provider prior to opening; and

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

1.6.21. Clarification of Ambiguities.

Any Service Provider believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify the City in writing of such apparent discrepancy. Failure to notify will constitute a waiver of claim for ambiguity, inconsistency or error.

1.6.22. Service Provider's Obligation to Fully Inform Themselves.

Service Providers 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 Service Provider's own risk.

1.6.23. Environmental Preferable Purchasing.

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

Recycled content	Renewable resources
Recyclability	Packaging
Biodegradability	Reduced toxicity
Energy and water efficiency	Durability
Low volatile organic compounds	Take back options

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

1.6.24. Disclaimer.

Each Service Provider 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.

Section 2

Procurement Process

2. PROCUREMENT PROCESS.

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

2.1. Schedule and Process.

The following chart shows the schedule of events to prepare the Service Provider'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
SEPTEMBER 23, 2009	<i>Issuance of RFP.</i> The City issues this RFP.
OCTOBER 1, 2009	<i>Request for Proposals Acknowledgement.</i> Service Providers who intend to submit a Proposal shall submit the RFP Acknowledgement Form on this date to the fax number listed in Section 2.2.
OCTOBER 1, 2009	<i>Submission of Written Questions Prior to Pre-Proposal Conference/Site Visit.</i> Service Providers are permitted to submit written questions, but only for purposes of clarifying this RFP. All submissions must be faxed or preferably e-mailed to Genetta Carothers at the address and number listed in Section 2.3. Questions are due by 12:00 p.m. on OCTOBER 1, 2009.
OCTOBER 6, 2009	<i>Non-Mandatory Pre-Proposal Conference / Site Visit.</i>
OCTOBER 9, 2009	<i>Submission of Written Questions After the Pre-Proposal Conference/Site Visit.</i>
OCTOBER 19, 2009	<i>Proposal Submission.</i> Proposals are due by 2:00 p.m. on OCTOBER 19, 2009, at the Procurement Services Division, CMGC 9 th Floor. All Proposals will be time-stamped upon receipt and held in a secure place until this date.
OCTOBER 19, 2009 – OCTOBER 23, 2009	<i>Evaluation.</i>
NOVEMBER 9, 2009	<i>Contract Award by Charlotte City Council.</i>

2.2. Intent to Propose.

Please acknowledge receipt of this RFP via facsimile by **OCTOBER 1, 2009** using the Request for Proposals Acknowledgement Form located in Section 7, Form One. Complete the form in its entirety advising the City of your firm's intention to submit or not submit a

Proposal. Fax the completed and signed form to (704) 632-8257, Attention: Genetta Carothers.

2.3. Interpretations and Addenda.

No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Service Provider. Otherwise, Service Providers must request such interpretations or clarifications in writing from the City. Address requests for information or clarification of this RFP to Genetta Carothers at the e-mail address listed below.

Questions must be submitted in writing in a timely manner and reference the RFP page and topic number. 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 before the Proposal Due Date. When responding to Service Provider questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at www.ips.state.nc.us, solicitation# 269-2010-117.

Genetta Carothers
City of Charlotte
Procurement Services Division
600 East 4th Street, CMGC 9th Floor
Charlotte, NC 28202
RFP # 269-2010-117
Fax: (704) 632-8257
E-mail: gcarothers@ci.charlotte.nc.us

The City reserves the right to disqualify any Service Provider 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 Service Providers after the Proposal due date.

2.4. Pre-Proposal Conference.

A Non-Mandatory Pre-Proposal Conference/Site Visit will be conducted on **OCTOBER 6, 2009 at 10:00 a.m.** The meeting will be held at the Charlotte-Mecklenburg Government Center, 600 East Fourth Street, Procurement Services Division, 9th Floor Large Conference Room, Charlotte, North Carolina 28202.

While attendance at the Pre-Proposal Conference is not mandatory, all interested Service Providers are encouraged to attend and to bring a copy of the RFP with you at that time. If special accommodations are required for attendance, please notify Genetta Carothers in advance of the conference date and time identifying the special accommodations required.

Once the pre-proposal conference is complete, all participants are encouraged to attend the site visit.

2.5. Submission of Proposals.

One electronic copy on a CD in a searchable format such as MS Word or Adobe Acrobat and one bound original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus two (2) copies shall be submitted to the address listed in Section 2.3 above by **OCTOBER 19, 2009 on or before but no later than 2:00 p.m.** The "original" Proposal and each of the two (2) copies shall be complete and bridged, 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. **Proposals sent by fax or email will not be accepted.**

Due to increased security concerns at the Charlotte-Mecklenburg Government Center (CMGC), your sealed boxed including any portions marked as Confidential/Trade Secret, may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place and to re-seal the box if delivering your Proposal in person to the CMGC.

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.

2.6. Correction of Errors.

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

2.7. Evaluation.

As part of the evaluation process, the Evaluation Committee may engage in discussions with any Service Provider. Discussions might be held with individual Service Providers to determine in greater detail the Service Provider's qualifications, to explore with the Service Provider the scope and nature of the required contractual Services, to learn the Service Provider'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 Service Providers to make presentations to the Evaluation Committee or appear before the City and/or its representatives for an interview. During such interview, the Service Provider 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. Service Providers 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 Service Provider's best offer for performing the Services described in this RFP.

2.8. Contract Award by Charlotte City Council.

As soon as practical after opening the Proposals, the name of the apparent successful Service Provider will be submitted to the Charlotte City Council for final approval of award. If approved by the Charlotte City Council, the Procurement Services Division will provide Contract documents to the Service Provider. In the event the Charlotte City Council approval is not received within one hundred twenty (120) calendar days after opening of the Proposals, the Service Provider may request that it be released from the Proposal.

3. SCOPE OF DEMOLITION AT 2403 WILKINSON BOULEVARD.

3.1. General Scope.

This RFP describes the technical work for demolition for 2403 Wilkinson Boulevard. The Service provider will survey and identify all accessible and non-accessible friable and non-friable asbestos-containing materials (ACM) in accordance with the National Emission Standards for Hazardous Air Pollutants (NESHAP) and EPA regulations for renovations and demolition. The results of the survey will allow Neighborhood and Business Services or Neighborhood Business Services' contractor to prepare an order for the removal of ACM, if required as recommended by the Service Provider.

While the City is flexible with respect to certain elements of its proposed relationship with the DEMOLITION AT 2403 WILKINSON BOULEVARD Services Provider, the City does have certain preferences for that relationship and has developed the following proposed model for that relationship.

3.2. Tasks.

To achieve the General Scope stated above, several tasks will be completed by the successful Service Provider

3.2.1 City Responsibilities

- Verify the N.C. General Contractors License;
- Verify the N.C. Asbestos Contractor License; and
- Assess a \$200 per day late fee for all late reports or delays with the special approval from the City Project Manager.

3.2.2 Service Provider Responsibilities

Option #1, demolition of all structures except parking lot and slabs to include:

- Remove all structures on the lot including, but not limited to out buildings, garages, retaining walls and fences;
- Remove all buildings down to the concrete slabs. All protuberances to be removed flush to the slab, with all voids filled in, such that the area is made safe;
- All parking areas, either concrete or asphalt shall remain intact, and not be removed;
- All storm drains, inverts or catch basins to remain in place;
- Erosion plans as may be required;
- Coordinating with utility companies for terminating and capping utility lines or pipes;
- Compliance with all EPA and OSHA requirements, including, but not limited to dust control and site security;
- Primary contractor shall have an active N.C. General Contractors License, as Exhibit C;
- Asbestos abatement contractor shall have an active N.C. Asbestos Contractor License, as Exhibit D;
- Furnish proof of proper abatement by certified individual or contractor, and a disposal manifest where ACMs (asbestos containing materials) have been identified prior to the structure demolition;
- Provide proof of proper disposal prior to payment;

Section 3

Scope of Services

- Furnish proof of bond and insurance up to the amount contract, as Exhibit E;
- Maintenance of highway or railroad rights of way;
- Any salvage materials to become property of the Service Provider, but must be removed from the property;
- All junk, debris, bricks, vegetation, (except trees), barrels, tanks, cans, chemicals, car parts and anything else must be carefully surveyed and figured into the initial cost of demolition;
- Collect, store, transport and dispose of all debris in compliance with all applicable laws;
- Grade the lot in such a way that no ponding occurs and that all surface water drains off in a proper way, not crossing other person's property line;
- Spread Kentucky 31 grass seed at a rate of no less than 200 pounds per acre and 10-10-10 fertilizer at a rate of no less than 400 pounds per acre;
- Disturbed areas of lot is to be covered with a sufficient amount of wheat straw to ensure a good stand of grass; and
- A "lot" shall be all property as defined in the legal deed for the location identified.

Option #2, demolition of all structures on the lot to include:

- Remove all structures on the lot including, but not limited to out buildings, garages, retaining walls, fences, asphalt, driveways, septic tank, footings and foundations, slabs, patios and sidewalks as directed;
- All storm drains, inverts or catch basins to remain in place;
- Erosion plans as may be required;
- Coordinating with utility companies for terminating and capping utility lines or pipes;
- Compliance with all EPA and OSHA requirements, including, but not limited to dust control and site security;
- Primary contractor shall have an active N.C. General Contractors License, as Exhibit C;
- Asbestos abatement contractor shall have an active N.C. Asbestos Contractor License, as Exhibit D;
- Furnish proof of bond and insurance up to the amount of the project, as Exhibit E;
- Furnish proof of proper abatement by certified individual or contractor, and a disposal manifest where ACMs (asbestos containing materials) have been identified prior to the structure demolition;
- Provide proof of proper disposal prior to payment;
- Maintenance of highway or railroad rights of way;
- Any salvage materials to become property of the Service Provider, but must be removed from the property;
- All junk, debris, bricks, vegetation, (except trees), barrels, tanks, cans, chemicals, car parts and anything else must be carefully surveyed and figured into the initial cost of demolition;

Section 3

Scope of Services

- Collect, store, transport and dispose of all debris in compliance with all applicable laws;
- Grade the lot in such a way that no ponding occurs and that all surface water drains off in a proper way, not crossing other person's property line;
- Spread Kentucky 31 grass seed at a rate of no less than 200 pounds per acre and 10-10-10 fertilizer at a rate of no less than 400 pounds per acre;
- The entire lot is to be covered with a sufficient amount of wheat straw to ensure a good stand of grass; and
- A "lot" shall be all property as defined in the legal deed for the location identified.

3.3. Questions Regarding Demolition Site.

The Service Provider will be provided the assigned City of Charlotte Project Manager's contact information. All questions regarding the property should be directed to the Project Manager.

3.4. Access to the Location.

The Service Provider is responsible for obtaining access to the property. The property is abandoned and open. Property may house squatters or vagrants. It is the responsibility of the Service Provider to coordinate police escorts for properties as the Service Provider feels is necessary and at the Service Provider's expense.

3.5. Licensing.

The Service Provider shall have an active N.C. General Contractor License, as shown in Exhibit C.

3.6. Completion of Work.

The demolition of 2403 Wilkinson Boulevard shall be completed in 90 calendar days or less of date of the purchase order from the City requesting work to proceed. If the work has not been started within thirty (30) calendar days of the purchase order, the purchase order shall become void. Failure to complete the demolition within the required period, the Service Provider shall be assessed \$200 per day after the 90th day as liquidated damages.

3.7. Pricing.

The Service Provider shall provide pricing to include:

- Option #1, demolition of all structures except parking lot and slabs; and
- Option #2, demolition of all structures on the lot.

For purposes of this RFP and the Service Provider's Proposal, assume a one-time purchase. Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars rounded to the nearest quarter of a dollar. A pricing worksheet is provided in Section 8, Form 4 to assist you.

3.8. Proposed Fee.

The Service Provider shall provide a lump cost to complete the demolition:

1. All structures except the parking lot and slabs; or
2. All structures on the lot.

Change orders or additional fees to complete work will not be approved. The fee shall include all costs associated with the Service Provider's demolition including project coordination, travel (including all trips to and from property), asbestos removal and invoicing.

3.9. Payment.

Payment for services will be made within 30 days of receiving complete and final invoice. Partial interim payments up to 85% of the cost of disposal and labor used at the time may be made to the contractor, provided the work has been satisfactorily completed. Final invoices shall be submitted to:

City of Charlotte
Finance – Accounts Payable
600 East Fourth Street
Charlotte, NC 28202

3.10. Customer Service.

The City is very focused on Customer Service with a philosophy to provide all customers with quality services in a manner that is courteous, responsive, accessible, and seamless. The Services will be delivered with patience, understanding, good will, and without regard to our own convenience. The selected Service Provider will be expected to use these guidelines in developing the Proposed Solution:

- Accessible, courteous, responsive and seamless customer service is of highest priority for the City.
- Accessible service means that citizens have easy access to the organization.
- Seamless customer service means that a customer gets good service no matter who is responsible.
- Responsible customer service means that our employees know what they are doing; that information they give is accurate; that they have a good understanding of how to get problems and decisions made; that they are trained and evaluated for the jobs they are doing.
- Customer Service goals must be measurable and regularly evaluated.
- Continuous improvements in customer service must be made in order to make City services accessible, responsive and as seamless as possible.

3.11. City Contract Requirements.

The City will enter into a Contract written by the City with the successful Service Provider that contains the terms and conditions set forth in Exhibit B. Each Service Provider must state specifically on a separate sheet of paper in its Proposal any exceptions to the terms and conditions included in Exhibit B, and any proposed additional terms or conditions deemed important by the Service Provider. The City will take any such exceptions and proposed additions into account during the evaluation process. Any terms and conditions that the Service Provider does not specifically object to will be incorporated into the resultant 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 Exhibit B are not all inclusive. The City will propose additional terms and conditions based on the responses to this RFP and the City's analysis of the successful Service Provider's Proposal.

3.12. Background Checks.

Prior to starting work under the Contract, the Service Provider is required to conduct a background check on each Service Provider employee assigned to work under the Contract, and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under the Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven years; and (b) a reference check.

After starting work under the Contract, the Service Provider shall be required to, perform a Background Check for each Service Provider employee assigned to work under the Contract during the term, and shall require its subcontractors (if any) to do the same for each of their employees. If the Service Provider undertakes a new project under the Contract, then prior to commencing performance of the project the Service Provider shall perform a Background Check for each Service Provider employee assigned to work on the project, and shall require its subcontractors (if any) to do the same for each of their employees.

If a person's duties under the Contract fall within the categories described below, the Background Checks that the Service Provider will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

- If the job duties require driving: A motor vehicle records check.
- If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
- If job duties include entering a private household or interaction with children: A sexual offender registry check.

The Service Provider must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.

The Service Provider shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.

The City may conduct its own background checks on principals of the Service Provider as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

3.13. Vendor Registration.

The City is pleased at your interest in doing business with the City of Charlotte and appreciates the opportunity to provide you with information regarding procurement protocols. The City's vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all Service Providers. To assist you in familiarizing yourself with procurement at the City, please follow the link below to the "How to Business with the City of Charlotte" booklet:

<http://www.charmeck.org/NR/rdonlyres/ek33m4cyfumkuevj4jdodelp646mx5x2ja2vydhpyrosfoo2ntxbrp2cxd7n5tt2oxiz7okexkmfe6dhivwtybxrqog/How+to+do+business+booklet.pdf>

Section 3

Scope of Services

Once you have had an opportunity to review the information above, you will need to register as a vendor with the City of Charlotte-Mecklenburg County. Your registration provides the City with baseline information for your company including location, contact and demographic information, as well as your areas of expertise with specific commodity and/or service descriptions. You will also have the opportunity to complete any applicable certifications if your company desires to establish itself as a Small Business Enterprise (SBE) or a Minority and Woman-Owned or Small Business Enterprise (MWSBE). The link below will provide you with the opportunity to complete your registration on-line with the City.

<https://cityvendors.charmeck.org>

4. PROPOSAL FORMAT.

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Service Provider's preference, the City requires strict adherence to the format. The Proposal will be in the format described below:

- a. Cover letter;
- b. Executive Summary;
- c. Background and Experience as requested in Section 5;
- d. The "Addenda Receipt Confirmation" set forth in Section 7, Form Two;
- e. The "Proposal Submission" set forth in Section 7, Form Three;
- f. The "Pricing Worksheet" set forth in Section 7, Form Four;
- g. The "Proposal Certification" set forth in Section 7, Form Five;
- h. Small Business Opportunity Program, Section 7, Exhibit A;
- i. N.C. General Contractors License, Exhibit C;
- j. N.C. Asbestos Contractors License, Exhibit D;
- k. Performance Bond and Certificate of Insurance, Exhibit E; and
- l. Exceptions to the Remainder of the RFP.

All Proposals shall be 8 1/2" x 11" format with all standard text no smaller than eleven (11) points. All submissions should use one-sided copying and be professionally bound with tab dividers corresponding to the content requirements specified below.

Proposals must also include a CD including the entire Proposal in a searchable format such as MS Word or Adobe Acrobat.

Service Providers are required to organize the information requested in this RFP in accordance with the format outlined. Failure of the Service Provider to organize the information required by this RFP as outlined may result in the City, at its sole discretion, deeming the Proposal non-responsive to the requirements of this RFP. The Service Provider, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.1. Proposal Content.

4.1.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents on behalf of the Service Provider as outlined in Section 1.6.3. The cover letter shall provide the name, address, telephone and facsimile numbers of the Service Provider along with the name, title, address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall present the Service Provider's understanding of the Project, a summary of the approach to be undertaken to perform the Services, as well as a summary of the costs to provide the Services.

4.1.2. Executive Summary.

The Service Provider 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 proposed project team, responsibilities of the project team, and a summary of the proposed Services. This section should highlight aspects of this Proposal, which make it superior or unique in addressing the needs of the City.

Section 4

Proposal Format

- 4.1.3. Background and Experience.
The Service Provider shall provide a concise description of the company, including origin, state of incorporation, background, and current size as requested in Section 5. Include information concerning general organization and staffing as well as experience with similar DEMOLITION AT 2403 WILKINSON BOULEVARD projects as described in Section 3.
- 4.1.4. Required Forms.
To be deemed responsive to this RFP, Service Providers must complete in detail, all Proposal Forms listed in this Section 4, items numbered d through i.
- 4.1.5. Exceptions to the RFP.
Exceptions must be submitted in accordance with Section 1.6.19 of this RFP. If exceptions are not identified in your Proposal they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal council needs to review the Sample City Contract prior to signature, reviews must be completed before your Proposal is submitted.

Section 5

Background and Experience

5. SERVICE PROVIDER'S BACKGROUND AND EXPERIENCE.

Please answer the following questions as completely as possible, placing your answer immediately after the question to which it applies. **If you wish to add supplemental information, it shall be labeled "Supplemental Information."**

5.1. Official Name.

Provide the legal name and address of the company and state of incorporation submitting the proposal. Also identify all subcontractors or joint venture partners.

5.2. Service Provider Background.

Provide an overview and history of your company. How long has the company been providing Services to local governments? Describe the organization and ownership. Include an organization chart.

5.3. Proposing Organization's Structure.

- a. Describe your total organization, including any parent companies, subsidiaries, affiliates, and other related entities;
- b. Describe the ownership structure of your organization, including any significant or controlling equity holders;
- c. Provide a management organization chart of your overall organization, showing director and officer positions and names and the reporting structure. Provide detailed information for the DEMOLITION AT 2403 WILKINSON BOULEVARD business segments of your organization, showing the reporting structures within these segments and among these segments and the overall organization; and
- d. Describe any organizational changes such as divestitures, acquisitions, or spin-offs involving your DEMOLITION AT 2403 WILKINSON BOULEVARD business segments that have occurred in the latest two (2) years or are anticipated in the future.

5.4. Analytical Approach (no response required).

The evaluation of financial viability of the Service Providers was developed with one primary goal in mind: to protect the City from risk of default by a selected Service Provider due to financial instability. Various analytical techniques will be used to assess the financial strength and stability of each Service Provider, focusing on profitability, solvency, and efficiency. The analysis will include an evaluation of specific financial indices and ratios in an effort to maximize objectivity and provide measures that are more directly comparable among Service Providers.

Other factors which may impact the financial position of a Service Provider, or which provide additional evidence of the financial strength of a Service Provider, will also be assessed. These factors include years of experience in providing similar Services, and demonstration of the ability to obtain sufficient levels of liability and property damage insurance.

Relevant information regarding recent litigation and bankruptcy filings, which may materially affect a Service Provider's financial position, will be examined. In addition to credit ratings and credit reports, bank and vendor references will be used to evaluate the credit worthiness of each Service Provider.

5.5. Guarantor.

The nature of the relationship between the Service Provider and its guarantor is crucial to protect the City in the event that the contracting Service Provider defaults on its obligations. If the parent company of a proposing Service Provider is serving as the guarantor, then the parent company **must indicate in a letter its willingness to guarantee all contractual obligations of the Service Provider.** If the Company that is serving as guarantor has a relationship with the Service Provider other than a parent/subsidiary relationship, then a detailed explanation of all past and present relationships between the Service Provider and its guarantor must be provided, in addition to a letter from the guarantor indicating its willingness to guarantee all contractual obligations of the Service Provider.

Any financial information requested of the Service Provider in the following section must similarly be provided for the guarantor. In the event of a joint submission or Proposal, all proposing entities must provide statements specifying the extent to which each entity will act as guarantor and provide all relevant financial documents for all entities involved in the joint venture. Additionally, if there is more than one (1) guarantor, then the guarantors must be jointly and separately obligated.

5.6. Proposed Project Team.

If the Service Provider's proposal submission will be from a team composed of more than one (1) company or if any subcontractor will provide more than fifteen percent (15%) of the Services, all participating companies must be identified. Provide a description, which includes the teaming relationships, form of partnership, each team member's contribution, and the experience of each team member, which qualifies them to fulfill their responsibility. Provide descriptions and references for the projects on which team members have previously collaborated. Identify the extent, if any, of Small Business Enterprise participation in this Project.

5.7. Management Approach.

- a. Describe your organization's customer service philosophy and describe how it is communicated and reinforced throughout the organization;
- b. Describe your organization's approach to total quality management, and describe your organization's total quality plan;
- c. Describe your organization's continuous improvement program and how your current customers benefit from your service improvements; and
- d. Describe your organization's experiences in adapting to changing technologies.

5.8. Personnel Management.

- a. Describe the key individuals, along with their qualifications, professional certifications and experience that would comprise your organization's team for providing Services to the City;
- b. Explain how your organization ensures that personnel performing technical support services are qualified and proficient;
- c. Describe your organization's approach, policies, and experience with respect to deployment of your personnel; and

Section 5

Background and Experience

5.9. References.

Provide an organization name, address, contact name, and contact telephone number for five (5) customers of comparable size and scope of service that your Company has been under contract with to provide DEMOLITION AT 2403 WILKINSON BOULEVARD for during the past two (2) years.

6. PROPOSAL EVALUATION CRITERIA.

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

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

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

6.1 Qualifications, Experience and Approach.

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

6.2 Cost Effectiveness and Value.

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

6.3 Acceptance of the Terms of the Contract.

The City will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP including the sample contract language provided in Section 8. Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with Section 1.6.19 of this RFP.

Section 7
Required Forms – Form One

REQUIRED FORM 1 - REQUEST FOR PROPOSALS ACKNOWLEDGEMENT

The Service Provider hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina RFP #269-2010-117, DEMOLITION AT 2403 WILKINSON BOULEVARD. This form should be completed upon receipt of the City's Request for Proposals and faxed in time for the City to receive it by or before **OCTOBER 1, 2009**. Please fax the completed Request for Proposals Acknowledgement Form to the attention of:

Genetta Carothers
Procurement Services Division
Fax: (704) 632-8257

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 on submitting a Proposal**

_____ **We do not plan on submitting a Proposal**

Reason: _____

Section 7
Required Forms – Form Two

REQUIRED FORM 2 - ADDENDA RECEIPT CONFIRMATION

RFP # 269-2010-117

DEMOLITION AT 2403 WILKINSON BOULEVARD

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to www.ips.state.nc.us.

ADDENDUM #:

**DATE ADDENDUM
DOWNLOADED FROM NC IPS:**

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.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

Section 7
Required Forms – Form Three

REQUIRED FORM 3 - PROPOSAL SUBMISSION FORM

RFP # 269-2010-117

DEMOLITION AT 2403 WILKINSON BOULEVARD

This Proposal is submitted by:

Service Provider Name: _____

Representative (printed): _____

Representative (***signed***): _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Fax Number

E-mail: _____

It is understood by the Service Provider 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 re-bid this RFP. Proposal is valid for one hundred twenty (120) calendar days from the Proposal due date.

Service Provider

Date

Authorized Signature

Please type or print name

Section 7

Required Forms – Form Four

REQUIRED FORM 4 - PRICING WORKSHEET

Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars rounded to the nearest quarter of a dollar. **If there are additional costs associated with the Services, please add to this chart. Your Price Proposal must reflect all costs that the City will be responsible for.**

The City is requesting firm fixed price contract for the one-time purchase. The Service Provider shall provide a lump sum cost to complete demolition to include:

1. All structures except the parking lot and slabs; or
2. All structures on the lot.

Change orders or additional fees to complete work will not be approved. The fee shall include all costs associated with the Service Provider's demolition including project coordination, travel (including all trips to and from property), asbestos removal and invoicing.

Service	Price
All structures except the parking lot and slabs.	\$
All structures on the lot.	\$

Section 7
Required Forms – Form Five

REQUIRED FORM 5 - PROPOSAL CERTIFICATION

AGREEMENT TITLE: **DEMOLITION AT 2403 WILKINSON BOULEVARD**

SERVICE PROVIDER: _____

The undersigned Service Provider hereby certifies and agrees that the following information is correct:

1. In preparing its proposal, the Service Provider has considered all proposals submitted from qualified, potential subcontractors and suppliers; and has not engaged in or condoned prohibited discrimination.
2. For purposes of this section, *prohibited discrimination* means discrimination against any person, business or other entity in contracting or purchasing practices on the basis of race, color, sex, or national origin. Without limiting the foregoing, *prohibited discrimination* also includes retaliating against any person, business or other entity for reporting any incident of prohibited discrimination.
3. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted by the Bidder on this Project and to terminate any contract awarded based on such bid.
4. As a condition of contracting with the City, the Service Provider agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Service Provider further agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Service Provider or terminate any contract awarded on such bid.

NAME OF FIRM

BY: _____
SIGNATURE OF AUTHORIZED OFFICIAL

TITLE

ATTEST/WITNESS:

SECRETARY/NAME OF WITNESS

EXHIBIT A
SMALL BUSINESS OPPORTUNITY PROGRAM

SBO PROVISIONS AND FORMS

FOR
DEMOLITION AT 2403 WILKINSON BOULEVARD

269-2010-117

1. **APPLICATION:**

The City of Charlotte's Small Business Opportunity Program (SBO Program) is incorporated into and made a part of this solicitation and the resulting contract (the "Contract"). Copies of the SBO Program may be obtained on-line at <http://smallbiz.charmeck.org> or from the SBO Office, 600 E. Fourth Street, Charlotte, North Carolina 28202-2850, Phone 704-336-2473. Capitalized terms used in this document are defined in the SBO Program. Each reference to "you" or "your" in these provisions refers to any entity that submits a bid, proposal or statement of qualifications on a City contract, and any entity that enters into a contract with the City.

The SBO Program requires that you comply with the **Good Faith Negotiation** requirements referenced in Section 3 below. *Failure to comply with the SBO Program in the bid/proposal phase will constitute grounds for rejection of your proposal. Failure to comply after contract award may result in assessment of damages or termination of your contract.*

2. **THE SBE UTILIZATION GOAL FOR THIS CONTRACT HAS BEEN SET AT: 4 %**

You must submit your proposed SBE utilization on the **Form 3** listing subconsultants and suppliers that will be providing goods or services. The **Form 3 must be submitted with your proposal**. The City will only give Proposers credit toward the SBE Goal for those SBES that are certified SBEs as of the Proposal due date and that meet Part C Section 3 of the SBO Program. Please note that to count an SBE toward your SBE Utilization Goal; you will need to have that SBE sign a Letter of Intent on **Form 4** (or an equivalent form containing the same information). The City will request your Letters of Intent if you are a finalist for contract award, and you must submit a separate **Form 4** for each SBE identified on the **Form 3** within 3 Business Days after the City requests it.

3. **GOOD FAITH EFFORTS: IF YOU DO NOT MEET THE SBE UTILIZATION GOAL,** then you must meet the Good Faith Negotiation and Good Faith Efforts requirements set forth in Part C Sections 4 and Section 5 of the SBO Program. These are **summarized** below. Failure to do so will constitute grounds for rejection of your bid.

Documenting Good Faith Efforts. To demonstrate Good Faith Efforts compliance, you must complete and submit **Form 5**. **Form 5** states the **minimum required** Good Faith Efforts **points** for this Contract, and lists the number of points attainable for each type of Good Faith Effort. **Form 5**, including documentation, shall be submitted at the time of the Proposal due date unless otherwise requested by the City. It is important that you carefully review Part C Section 5 of the SBO Program as soon as possible so as to put yourself in a position to provide the documentation.

3.1 **SBE Contacts:**

In order to receive credit for this Good Faith Effort at least 14 Calendar Days prior to the Proposal Due date, you must contact at least 6 SBE firms (the "Minimum Contacts") listed in the SBE Source List provided with the City's bid or proposal packet or that can be found on the Small Business Development Program website located at <http://smallbiz.charmeck.org>. Please refer to Part C Section 5.3.2 of the SBO Program regarding how these Minimum Contacts must be made and documented. Minimum Contacts must be recorded on **Form 2**, which is submitted along with **Form 5**. Please note that **you must make the Minimum Contacts at least 14 Calendar Days before the Proposal Due date**. It is important that you carefully review Part C Section 5.3.2 of the SBO Program as soon as possible so as to put yourself in a position to provide **Form 2** and any other documentation at the time of **the Proposal Due date** or as requested by the City.

Good Faith Negotiation. You must negotiate in good faith with all interested SBE firms. Part C Section 4 of the SBO Program defines what negotiating in "good faith" means. Each Proposer must negotiate in good faith with each SBE that responds to the Proposer's solicitations and each SBE that contacts the Proposer on its own accord (as defined more specifically in Part C Section 4.4). You must submit to the City a **Contract Opportunities Good Faith Negotiation** form for each subconsulting opportunity identified by the City for which the proposal by a "Qualified SBE" within the meaning of Part A was not accepted. Proposers must provide such forms and information within three days after the City requests it. Failure to comply with the requirements set forth in this section shall constitute grounds for rejecting a Proposal.

4. **SBO PROGRAM PROVISIONS APPLICABLE AFTER CONTRACT AWARD**

If you are awarded a Contract with the City, note in particular the following Sections of the SBO Program that relate to post award requirements and activity:

- a. Compliance with committed SBE utilization level throughout the Contract per Part D Section 2 of the SBO Program.
- b. Terminating or Replacing an SBE on a contract per Part D Section 5 of the SBO Program.
- c. New Subcontractor Opportunities/Additions to Scope, Contract Amendments per Part D Section 6 of the SBO Program.
- d. Payments to SBEs per Part D Section 7 of the SBO Program.
- e. Utilization Reports and Documentation of Payments per Part D Section 8 of the SBO Program.

5. **SBO CONTRACT PROVISIONS**

The following provisions are incorporated into any contract that may result from this solicitation.

Small Business Opportunity Program. The City has adopted a Small Business Opportunity Program, which is posted on the City's website and available in hard copy form upon request to the City. The parties agree that:

- (i) The terms of the City's Small Business Program, as revised from time to time, together with all rules and guidelines established under such program (collectively, the "SBO Program") is incorporated into this Agreement by reference; and
- (ii) A violation of the SBO Program shall constitute a material breach of this Agreement, and shall entitle the City to exercise any of the remedies set forth in Part D of the SBO Program, including but not limited to liquidated damages; and
- (iii) Without limiting any of the other remedies the City has under the SBO Program, the City shall be entitled to withhold periodic payments and final payment due to the Contractor under this Agreement until the City has received in a form satisfactory to the City all claim releases and other documentation required by the City's SBO Program, and in the event payments are withheld under this provision, the Contractor waives any right to interest that might otherwise be warranted on such withheld amount under G.S. 143-134.1; and
- (iv) The remedies set forth in Part D Section 13 of the SBO Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy; and
- (v) The City will incur costs if the Contractor violates the SBO Program, and such costs are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the City liquidated damages at the rates set forth in Part D of the SBO Program.
- (vi) The Contractor agrees to participate in any dispute resolution process specified by the City from time to time for the resolution of disputes arising from the SBO Program.
- (vii) Nothing in this Section shall be construed to relieve a Contractor from any obligation it may have under N.C. Gen. Stat. 143-134.1 regarding the payment of subcontractors.

Remedies for Violation of SBO Program. A violation of the SBO Program by a Contractor shall constitute a material breach of the Contract, and shall entitle the City or private owner to:

- (i) Exercise all rights and remedies that it may have at law or at equity for violation of the SBO Program; Terminate the Contract for default;
- (ii) Suspend the Contract for default;
- (iii) Withhold all payments due to the Contractor under the Contract until such violation has been fully cured or the City and the Contractor have reached a mutually agreeable resolution;
- (iv) Assess liquidated damages as provided in the following Part D Section 13.2; and/or
- (v) Offset any liquidated damages and/or any amounts necessary to cure any violation of the SBO Program from any retainage being held by the City on the Contract, or from any other amounts due to the Contractor under the Contract.

The remedies set forth herein shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other available remedy.

Liquidated Damages. The City and the Contractor acknowledge and agree that the City will incur costs if the Contractor violates the SBO Program in one or more of the ways set forth below. The parties further acknowledge and agree that the City will incur damages as a result of such failure, but that the costs the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the City liquidated at the rates set forth below for each specified violation of the SBO Program. The Contractor further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation:

- i. **Failure to meet the SBE Goal.** If the City determines upon completion or termination of a Contract that the Contractor did not meet the Committed SBE Goal and that such failure is not otherwise excused under Part D Section 2, the City may assess the lesser of : (a) \$30,000 or (b) the dollar difference between the Committed SBE Goal and the Contractor's actual SBE utilization;
- ii. **Using SBE as a Conduit.** If the Contractor lists an SBE to receive credit toward a Committed SBE Goal with knowledge that the SBE will be acting as a Conduit or will not be performing a Commercially Useful Function reasonably commensurate with the payment amount for which the Contractor will be seeking credit, the City may assess the lesser of: (a) \$20,000 or (b) the dollar amount the Contractor indicated that it would pay such SBE in the SBEs contract (or if no contract has been signed, the SBE's Letter of Intent);
- iii. **Wrongful Termination or Replacement of SBE Services.** If the Contractor terminates or replaces an SBE in violation of the SBO Program, the City may assess the lesser of: (a) \$20,000 or (b) the dollar amount of the work remaining to be performed by the terminated SBE at the time it was terminated (or if the SBE was not terminated because it was never retained, then, the dollar amount that the Contractor indicated it would pay the SBE in the SBE's letter of intent) or ;
- iv. **Failure to Comply with SBO Program Upon Termination or Withdrawal by SBE.** If the Contractor fails to comply with Part D Section 5 of the SBO Program upon the termination or withdrawal of an SBE the City may assess the lesser of: (a) \$20,000 or (b) the dollar amount of the work remaining to be performed by the SBE that withdrew or was terminated at the time of the termination or withdrawal;
- v. **Failure to Comply with SBO Program to Add New Subcontractors.** If the Contractor fails to comply with Part D of the SBO Program in adding new subcontractors to a Contract, or in the event of a Contract amendment or increase in the scope of work on a contract, the City may assess the lesser of: (a) \$20,000; or (b) the dollar amount of the new or additional work;
- vi. **False Statements and Misrepresentations.** If the Contractor makes a false statement or material misrepresentation regarding any matter relevant to the SBO Program (including but not limited to information provided regarding payments made to SBEs), the City may assess the lesser of: (a) \$25,000; or (b) the dollar difference between what the Contractor represented and the **truth**;
- vii. **Failure to Respond to Request for Information.** If the Contractor fails to provide any report, documentation, affidavit, certification or written submission required under the SBO Program within the time period set forth therein, the City may assess \$25 per day for each day that such report, documentation or written submission is overdue.

6. **SBO FORMS**

Proposers shall submit the following forms with their qualification package or at a time specified:

	Submission Requirements	Form No.
Notification of Subconsultant / Purchasing Opportunities. Identifies all the subconsulting or supplier opportunities available on the Contract.	Submission is optional. If submitted, it must be received by the City fourteen (14) Calendar Days before the Proposal due date.	Form 1
SBE Solicitation. Identifies all SBEs the Proposer contacted or those that contacted the Proposer and the scope of work for which they were contacted. Includes date and method of contact for SBE firms. Good Faith Negotiation is documented on this form.	If not meeting the SBO Goal, submit with Form 5.	Form 2
Subconsultant / Supplier Utilization Commitment. Identifies all subconsultants, suppliers, manufacturers, brokers and/or members of a joint venture to be utilized on the contract and dollar amounts committed to SBEs. Proposers must include all subconsultants known at the time the proposal is submitted.	Due with proposal.	Form 3
Letter of Intent. Proposers must submit a separate Letter of Intent executed by each SBE listed on Form 3 that the Proposer will use on the Contract.	The City will request this form from finalists for contract award. Must submit within three (3) Business Days after requested by the City.	Form 4 or alternative as permitted by the City
Good Faith Efforts (GFE) / Statement of GFE Compliance. States the minimum GFE points required for this solicitation and the number of points attributable to each GFE item. Proposer must check each GFE item for which it earned points, as described in Part C Section 5.3 of the SBO Program.	If not meeting the SBO Goal, submitted within three (3) business days after the City requests.	Form 5
Payment Affidavit. Contractor shall provide with each pay request to the City a payment affidavit showings payments made to all subconsultants, suppliers, manufacturers, brokers, and/or members of a joint venture in connection with the contract.	Due with each pay request	Form 6 or alternative proof as permitted by the City
Contract Opportunities Good Faith Negotiation Report. For each scope of work identified by the City bidder must provide an explanation for rejecting the lowest bid if submitted by an SBE. Bidders must submit a separate Construction Opportunities Good Faith Negotiation Report for each low bid submitted by and SBE that is rejected.	If not meeting the SBO Goal, submit with Form 5.	Form B

All SBO Forms are also available on-line at <http://smallbiz.charmeck.org>. Forms must be received by fax, e-mail or US Mail.

7. Please find below a list of activities that the City has identified as potential Small Business Enterprise (SBE) subcontracting opportunities. This is a potential listing not all inclusive. Proposer may identify additional or different opportunities.

NIGP Code	Description
91038 , 92658	Asbestos Removal
90903	Contract Management (Scheduling, Estimating)
96239	Hauling

A list of SBE vendors can be accessed at the following Website: <http://smallbiz.charmeck.org>

A SBE vendor source list is also included herein.

VENDOR NAME	VMS #	CERTIFICATION TYPES	PRIMARY CONTACT PERSON	MAILING ADDRESS	EMAIL ADDRESS	TELEPHONE	FAX NUMBER	WEBSITE
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90903 - Administration of Contracts: Summary of Work, Quality Control, Project Closeout, etc.

Lenon Consulting	9658	SBE---05/24/2007 to 05/24/2010	Brooke D. Lenon	11360 Deer Ridge LN, Charlotte, NC 28277	rblenon@mindspring.com	(704) 779-0185	(704) 341-1953	
Site Studio, Inc.	9304	SBE---01/05/2007 to 01/05/2010	Paula F. Gornto	2320 W Morehead ST, Suite 100, Charlotte, NC 28208	pgornto@sitestudioinc.com	(704) 521-2775	(704) 521-8955	www.sitestudioinc.com

91038 - Insulation and Asbestos Installation, Maintenance, Repair and Removal Services (Includes Inspection and Monitoring)
91813 - Asbestos Consulting
92658 - Lead and Asbestos Inspection Services

A White Services	14243	SBE---12/12/2008 to 12/12/2011	Anthony White	2505 Mintew CI, Lincolnton, NC 28092	awhiteservicesco@cs.com	(704) 732-0146	(704) 748-1550	
Ford Environmental Services, LLC.	17137	SBE---12/20/2007 to 12/20/2010	Hassaun Valentine	4469 Millbridge DR, Charlotte, NC 28208	h.valentine@fordenvironmental.com	(704) 968-3235	(866) 583-6441	www.fordenvironmental.com
Geological Resources Inc.	14197	SBE---09/15/2008 to 09/15/2011	Carrie Kennedy	2301-F Crown Point Executive DR, Charlotte, NC 28227	carriekennedy@geologicalresourcesinc.com; lck@geologicalresourcesinc.com	(704) 845-4010	(704) 845-4012	
Get The Lead Out, LLC	9676	SBE---03/07/2008 to 03/07/2011	Peter M Hubicki	2121 Commonwealth AV, Suite 202, Charlotte, NC 28205-5100	peteh@gettheleadout.biz	(704) 376-3594	(704) 376-3593	www.gettheleadout.biz
Greenmodeling, LLC	20957	SBE---06/30/2009 to 06/30/2012	Justin Rowell	3414 June DR, Charlotte, NC 28205	justin.rowell@greenmodeling.com	(704) 999-4636		www.greenmodeling.com
H&H Hauling & Deconstruction, Inc.	20078	SBE---11/21/2008 to 11/21/2011	Walter Rasby	3120 Wilkinson BV, Suite D3 - 135, Charlotte,, NC 28208	walter@handhhauling.com	(704) 315-4191	(888) 855-4285	
Quality Environmental, LLC.	11607	SBE---12/27/2007 to 12/27/2010	Collins Ibeto	, PO Box 480507, Charlotte, NC 28269		(704) 921-0083	(704) 921-0093	

96239 - Hauling Services

7 Star Construction Co., Inc.	8895	SBE---08/13/2007 to 08/13/2010	Emma Neely	, P.O. Box 861, Rock Hill, SC 29731-6861		(803) 329-2664	(803) 329-8652	www.7starconstruction.com
A2Z Turnkey Service, Inc.	15887	SBE---02/23/2007 to 02/23/2010	Harley Alwran	, P.O. Box 103, Newell, NC 28126	gordon.sellars@a2zturnkeyserviceinc.com	(704) 400-9370	(704) 499-4429	
All Points Trucking, Inc.	10376	SBE---01/16/2009 to 01/16/2012	Jennine Hill	, P.O. Box 240801, Charlotte, NC 28224	allpointtrucking@aol.com	(704) 588-9447	(704) 588-9160	
Andolina Trucking	15694	SBE---12/12/2006 to 12/12/2009	Mario Andolina	, P.O. Box 2035, Indian Trail, NC 28079-2086	andolinainc@aol.com	(704) 254-2900	(704) 882-1676	
Bardwil Trucking, LLC	9632	SBE---05/18/2007 to 05/18/2010	Brian L. Bardwil	, P.O. Box 94, Polkville, NC 28136	bkbardwil@bellsouth.net	(704) 607-6489		
BP Contractors Inc.	19765	SBE---01/23/2009 to 01/23/2012	Brian Pedrick	7804 Commerce DR, Denver, NC 28037	bpdrainageworks@aol.com	(704) 483-1817	(704) 489-1327	
Bruce R. Jenkins & Associates	8504	SBE---10/05/2007 to 10/05/2010	Bruce R. Jenkins	, P.O. Box 5451, Charlotte, NC 28299-5451	brucerjenkins@bellsouth.net	(704) 373-9094	(704) 373-9404	
Bulldog Hauling of the Carolinas Inc.	17263	SBE---02/01/2008 to 02/01/2011	Jennifer Comesky	6641 Latta Springs CI, Charlotte, NC 28078	jcomesky@hotmail.com	(704) 766-2767	(704) 766-2767	www.bulldoghaul.com
Chambers Express Trucking, Inc.	9674	SBE---04/10/2007 to 04/10/2010	Marvin Chambers	2132 Blue Bonnett LN, Matthews, NC 28104		(704) 292-2916	(704) 292-7386	
Cherryville Grading Inc.	16569	SBE---07/13/2007 to 07/13/2010	Bobby Fuller Jr.	697 Saint Marks Church RD, Bessemer City, NC 28016	bfuller1@carolina.rr.com	(704) 435-4139	(704) 445-4271	
Chippewa Trucking	9345	SBE---05/08/2007 to 05/08/2010	Grayce Anderson	506 E 37th ST, Charlotte, NC 28205	karencombs@mindspring.com	(980) 721-2235	(704) 372-2376	
D & N Hauling	15852	SBE---01/02/2007 to 01/02/2010	Drew Ledbetter	2944 W Highway 27, Lincolnton, NC 28092	djthedrewman@charter.net	(980) 429-0488	(704) 735-4661	
D. E. Walker Construction Co.	8521	SBE---02/23/2007 to 02/23/2010	Derrick E. Walker	, P.O. Box 411564, Charlotte, NC 28241	dewalkerconstr@aol.com	(704) 597-8911	(704) 597-8477	
Dallas 1 Construction, LLC	8856	SBE---05/15/2009 to 05/15/2012	Tim Pirc	, 480369, Charlotte, NC 28269	timpirc@bellsouth.net	(704) 509-4547	(704) 509-1317	www.dallas1nc.com
Daniel Del Fa	16927	SBE---01/10/2008 to 01/10/2011	Daniel Del Fa	3050 Hornell PL, Charlotte, NC 28270	ddelfa@msn.com; flushing39@yahoo.com	(321) 235-1027	(407) 282-7932	
Darnell Jones Trucking, Inc.	9078	SBE---09/08/2009 to 09/08/2012	Darnell Jones	1603 Buena Vista RD, Monroe, NC 28112		(704) 225-1573		
Dawson's Lawn Service, Inc.	16629	SBE---07/14/2008 to 07/14/2011	Kenya Dawson	4009 Sawmill Trace DR, Charlotte, NC 28213	dawsonslawnserviceinc@yahoo.com			
D's Trucking Service Inc.	8190	SBE---03/13/2007 to 03/13/2010	Debra Pressley	, P.O. Box 1404, Indian Trail, NC 28079-1404	datdsttruck@aol.com	(704) 882-9873	(704) 882-1229	
Express Logistics Services, Inc.	15648	SBE---01/26/2007 to 01/26/2010	Kojo Sapon	, P.O. Box 19761, Charlotte, NC 28219	kojo119@yahoo.com	(704) 241-6336	(803) 396-3896	
Ford Environmental Services, LLC.	17137	SBE---12/20/2007 to 12/20/2010	Hassaun Valentine	4469 Millbridge DR, Charlotte, NC 28208	h.valentine@fordenvironmental.com	(704) 968-3235	(866) 583-6441	www.fordenvironmental.com
Fuller Building Maintenance	15941	SBE---01/23/2007 to 01/23/2010	Carlos S Fuller	2401 Alleghany ST, Charlotte, NC 28208	carlosflr@yahoo.com	(980) 230-6551		

VENDOR NAME	VMS #	CERTIFICATION TYPES	PRIMARY CONTACT PERSON	MAILING ADDRESS	EMAIL ADDRESS	TELEPHONE	FAX NUMBER	WEBSITE
Glaze Independent Trucking	16823	SBE---02/08/2008 to 02/08/2011	Delmar Glaze	1532 Bray DR, Charlotte, NC 28214	drglazesr@yahoo.com	(704) 345-5984	(704) 391-7321	
H&H Hauling & Deconstruction, Inc.	20078	SBE---11/21/2008 to 11/21/2011	Walter Rasby	3120 Wilkinson BV, Suite D3 - 135, Charlotte,, NC 28208	walter@handhhauling.com	(704) 315-4191	(888) 855-4285	
Happy Jack Trucking, Inc.	8429	SBE---07/31/2009 to 07/31/2012	Charles A. Jones	2126 English DR, Charlotte, NC 28216-0000		(704) 394-5600		
Hazel Holmes Trucking Inc.	8404	SBE---10/02/2006 to 10/02/2009	Hazel L. Holmes	, P.O. Box 667565, Charlotte, NC 28266	hazelholmestrucking@yahoo.com	(704) 391-0054	(704) 393-2723	
HowDel Trucking, Inc	15533	SBE---09/21/2006 to 09/21/2009	Alisa Delgado	13000 F-South Tryon St. DR, #194 , Charlotte, NC 28278	Howdeltrucking@hotmail.com	(704) 780-1834	(704) 644-5323	
Ken Burgess Trucking	15481	SBE---08/28/2009 to 08/28/2012	Kenneth Burgess		jjkj0515@aol.com	(803) 925-3140		
King of Kings Construction, LLC	16577	SBE---10/09/2007 to 10/09/2010	Richard Miller	, P.O.Box 681844, Charlotte, NC 28216	kingofkingsnc@yahoo.com	(704) 281-7297		www.kingofkingsnc.com
Landmark Materials	20568	SBE---03/18/2009 to 03/18/2012	Vladimir Babiy	2809 Tophill RD, Monroe, NC 28110	landmarkmaterials@yahoo.com	(704) 289-5089	(704) 289-5385	
Larry Campbells Towing & Recovery, Inc.	13034	SBE---08/22/2007 to 08/22/2010	Teresa Campbell Booth	7327 Old Statesville RD, Charlotte, NC 28269	lcampbellstowing@aol.com	(704) 597-8450	(704) 597-7927	
Little L's Dump Truck Service Inc.	8534	SBE---12/16/2008 to 12/16/2011	Loren Smith	4393 73 HWY, Iron Station, NC 28080-0000	littles010@aol.com	(704) 400-4637	(704) 483-6140	
Load Em Down Trucking	16355	SBE---05/16/2007 to 05/16/2010	Lee Antoine Little	512 Wearn CT, Charlotte, NC 28206	lalittle@bellsouth.net	(704) 492-0633		
Martin Resources, LLC	20523	SBE---02/16/2009 to 02/16/2012	Kyle Elizabeth Martin	14231 Market Square DR, Suite C2-121, Huntersville, NC 28078	martin.resources@gmail.com	(704) 200-6026	(866) 593-7691	
Marty Cambell Inc.	17409	SBE---04/18/2008 to 04/18/2011	LuAnn	8001 Wright RD, Kannapolis, NC 28081	luann@ctc.net	(704) 932-6439	(704) 938-6439	
Muddrunners Inc.	14257	SBE---11/05/2008 to 11/05/2011	James Montgomery Sr.	7201 Tressel LN, Charlotte, NC 28227	jmontgomery1@carolina.rr.com	(704) 517-5380	(704) 545-1744	
MUGO Gravel & Grading, INC.	19762	SBE---10/02/2008 to 10/02/2011	Karen M. Christy	, P.O.Box 1961, Concord, NC 28026	kchristy@mugoinc.com	(704) 933-6846	(704) 933-6848	
Myrick's Trucking	15679	SBE---10/24/2006 to 10/24/2009	Jerry Myrick	396 Havenbrook WY, Concord, NC 28027-4100	jsabusinessman@yahoo.com	(980) 521-2994		
N.I.A. Construction	20644	SBE---04/02/2009 to 04/02/2012	Harold Seymour	, P.O. Box 690670, Charlotte, NC 28227	niaconstruction26@yahoo.com	(704) 957-4722	(704) 545-3269	
New Astute Consulting	16066	SBE---02/28/2007 to 02/28/2010	Eddie Fowler	401 Hawthorne LN, Suite 110-115, Charlotte, NC	efowler@newastute.com	(704) 831-8858	(704) 370-0045	www.newastute.com
Pana Trucking	17073	SBE---12/03/2007 to 12/03/2010	Pedro M. Andrade	4028 Fifendrum LN, Charlotte, NC 28216	tortalero23@aol.com	(704) 944-3691	(704) 399-6182	
Parks Trucking	12830	SBE---02/25/2008 to 02/25/2011	Charles Parks	3914 Mount Holly Huntersville RD, Charlotte, NC 28216		(704) 393-7298	(704) 393-7298	
Privette Enterprises, Inc.	21158	SBE---08/13/2009 to 08/13/2012	David M. Privette	5708 Old Monroe RD, Indian Trail, NC 28079	dave@peigrading.com	(704) 821-9161	(704) 821-4150	www.peigrading.com
R. Broome Jr. Trucking	16065	SBE---02/28/2007 to 02/28/2010	Roosevelt Broome Jr.	524 Westham Ridge RD, Charlotte, NC 28217		(980) 721-2393	(704) 523-1960	
R.L. Raffaldt, Inc,	21141	SBE---08/06/2009 to 08/06/2012	Wendy K. Raffaldt	674 Flicker ST, Suite B, Concord, NC 28027	rlaffaldt@hotmail.com	(704) 786-7219	(704) 784-1792	www.rlraffaldt.com
RC Hauling, Inc.	9197	SBE---12/20/2006 to 12/20/2009	Roger L. Critis	10660 Highway 601 South, Midland, NC 28107-7741	rc@cpc.net	(704) 786-1067	(704) 723-9502	
Reliable Woodworks, Inc.	9165	SBE---02/20/2007 to 02/20/2010	Tammy S. Airheart	3750 Penninger RD, Concord, NC 28025	jtworkshop@aol.com	(704) 782-5438	(704) 785-9666	
Richard Bear Trucking	14182	SBE---08/25/2008 to 08/25/2011	Richard Bear	18824 Nautical DR, Cornelius, NC 28031		(704) 400-1399		
RLD Trucking	20079	SBE---11/25/2008 to 11/25/2011	Ronald L. Downer, Jr	7438 Elwood DR, Charlotte, NC 28227	rldtruckinginc.@yahoo.com	(704) 264-9821	(704) 545-4046	
Roberta A. Jones Hauling	17146	SBE---01/15/2008 to 01/15/2011	Roberta Jones	10129 Green Hedge AV, Charlotte, NC 28269		(704) 200-1896		
Rowell Trucking	17228	SBE---02/11/2008 to 02/11/2011	Shereka Jordan	10100 Brawley LN, Charlotte, NC 28215	rowelltrucking@mail.com	(704) 363-2565	(704) 499-4538	
S&S Demolition - Construction	19569	SBE---09/11/2008 to 09/11/2011	John Slachciak Jr	, P.O. Box 680085, Charlotte, NC 28216	johnjr3girls@bllsouth.net	(704) 506-6368	(704) 509-2168	
Scott Trucking	16520	SBE---05/21/2009 to 05/21/2012	Quentin Todd Scott	1641 Arlyn CI, Suite F, Charlotte, NC 28213	scotttrucking@att.net	(704) 400-4951	(704) 510-3527	
Solano's Trucking	16606	SBE---07/26/2007 to 07/26/2010	Efrain Solano	7705 Sullivans Trace DR, Charlotte, NC 28217-3083	eframatusa@hotmail.com	(704) 557-5558		
Spears Trucking	9112	SBE---11/15/2006 to 11/15/2009	Judy Spears	512 Hillsdale DR, Monroe, NC 28110		(704) 289-2210		
State Construction Company of the Carolinas, LLC	8496	SBE---08/02/2007 to 08/02/2010	April Thomas Fuller	, P.O. Box 26415, Charlotte, NC 28221	aprilt@thomascc.com	(704) 596-0069	(704) 598-6273	
Stinson Trucking, Inc.	8440	SBE---07/11/2007 to 07/11/2010	Franklin Stinson, Jr.	3915 Glenwood DR, Suite C-A-3, Charlotte, NC 28208	stinsonstru35994@bellsouth.net	(704) 393-7797	(704) 393-7798	
Streeter Trucking	14287	SBE---02/02/2009 to 02/02/2012	James A. Streeter	6206 Sunbridge CT, Charlotte, NC 28269	streetertrucking@aol.com	(704) 400-4112	(704) 509-1250	

VENDOR NAME	VMS #	CERTIFICATION TYPES	PRIMARY CONTACT PERSON	MAILING ADDRESS	EMAIL ADDRESS	TELEPHONE	FAX NUMBER	WEBSITE
Thore Enterprises, Inc.	20418	SBE---02/05/2009 to 02/05/2012	Donna K. Thore	11125 Forest Lake AV, Huntersville, NC 28078	thomasathore@bellsouth.net	(704) 875-9407	(704) 947-1747	
Tri Corp Construction, Inc.	20780	SBE---05/20/2009 to 05/20/2012	Ann C. Rogers	2005 Claude Austin RD, Monroe, NC 28112-8711	leathersandgrace@wildblue.net	(704) 296-1102	(704) 764-4241	tricorpconst.com
TWD Enterprises, Inc.	16752	SBE---06/24/2009 to 06/24/2012	Johnny Sue Dellinger	7842 Highway 73, Stanley, NC 28164	jmayer9987@aol.com	(704) 822-6166	(704) 822-0587	
United Paving Doctor / UPD	20731	SBE---06/19/2009 to 06/19/2012	Donald Gabriel	7412 Jacobs Fork LN, Charlotte, NC 28273	pavingdoctor@live.com	(704) 631-6559	(704) 583-2124	
VHM Construction, Inc	8063	SBE---08/22/2007 to 08/22/2010	Vernon McRae	CT, P.O. Box 35667, Charlotte, NC 28235	vernon@vhmconstructioninc.com	(704) 377-6885	(704) 377-1618	
Victor Melton Construction	8176	SBE---11/17/2006 to 11/17/2009	Victor E. Melton	918 S Chapel ST, Kannapolis, NC 28083	vicmelton@msn.com	(704) 938-2714	(704) 932-1837	
W.C. Black & Sons, Inc	15096	SBE---04/06/2009 to 04/06/2012	Jason Black	5108 Cheviot RD, Charlotte, NC 28269	jsblack@bellsouth.net	(704) 597-5954	(704) 597-5954	
W.G.K., Inc.	8074	SBE---09/09/2009 to 09/09/2012	Ken Patton	2101 Whittington ST, Charlotte, NC 28206	pattonken@aol.com	(704) 363-3564	(704) 343-0660	
Yenrof Trucking	15751	SBE---11/16/2006 to 11/16/2009	Charles Forney	5783 Dove Pt DR SW, Concord, NC 28025	yenroftrucking@ctc.net	(704) 791-8994	(704) 792-9792	
Zion Trucking	16555	SBE---08/03/2007 to 08/03/2010	Derrick Drayton	6420-A1 Rea RD, Suite 317, Charlotte, NC 28277	dziontrucking@aol.com	(704) 905-1949		



Small Business Opportunity Program
Notification of Subcontracting / Purchasing Opportunities

SBOP Form 1

** Per Part C, Section 5.3.1 of the SBO Program, in order to receive credit as a Good Faith Effort (GFE), a Proposer must submit **FORM 1**, or another document providing the same information, to the City no later than 14 calendar days before Proposal Due Date. **(POTENTIAL GFE Points: 15)**

Proposer Name: _____

Project Name: Demolition 2403 Wilkinson Blvd

Project Number: 269-2010-117

Identify the portions of the contract for which there are intended subcontractor, supplier, or service provider opportunities.

NIGP code	Description of Subcontracting / Supplier Opportunity

Submit this form to: Genetta Carothers

E-mail: gcarothers@ci.charlotte.nc.us

Fax Number: 704-632-8257

Phone Number: 704-336-5195



Small Business Opportunity Program

SBE Solicitation Form

Copy this Form as needed.

SBOP Form 2

(page 1 of 2)

** Per Part C, Section 5.3.2.3 of the SBO Program, in order to receive credit as a Good Faith Effort for Contacting SBEs, a Proposer must submit **FORM 2** (SBE Solicitation Form) within the time specified in City Solicitation Documents, or within 3 Business Days after the City requests it, if no time period is specified. **(POTENTIAL GFE Points: 10)**

Proposer Name:

Project Name:

Demolition 2403 Wilkinson Blvd

Project Number:

269-2010-117

SBE Firm:	
Contact Person:	NIGP Code:
Scope of Work:	
Initial Contact	Date: Method: ☐ Phone ☐ Fax ☐ Email ☐ Courier ☐ Mail ☐ In person
Follow-up:	Date: Method: ☐ Phone ☐ In person
Response:	☐ No response ☐ Not bidding ☐ Is bidding \$ _____ ☐ Other (explain)
Selected?	☐ Yes ☐ No
SBE Firm:	
Contact Person:	NIGP Code:
Scope of Work:	
Initial Contact:	Date: Method: ☐ Phone ☐ Fax ☐ Email ☐ Courier ☐ Mail ☐ In person
Follow-up:	Date: Method: ☐ Phone ☐ In person
Response:	☐ No response ☐ Not bidding ☐ Is bidding \$ _____ ☐ Other (explain)
Selected?	☐ Yes ☐ No
SBE Firm:	
Contact Person:	NIGP Code:
Scope of Work:	
Initial Contact:	Date: Method: ☐ Phone ☐ Fax ☐ Email ☐ Courier ☐ Mail ☐ In person
Follow-up:	Date: Method: ☐ Phone ☐ In person
Response:	☐ No response ☐ Not bidding ☐ Is bidding \$ _____ ☐ Other (explain)
Selected?	☐ Yes ☐ No
SBE Firm:	
Contact Person:	NIGP Code:
Scope of Work:	
Initial Contact:	Date: Method: ☐ Phone ☐ Fax ☐ Email ☐ Courier ☐ Mail ☐ In person
Follow-up:	Date: Method: ☐ Phone ☐ In person
Response:	☐ No response ☐ Not bidding ☐ Is bidding \$ _____ ☐ Other (explain)
Selected?	☐ Yes ☐ No



Small Business Opportunity Program
SBE Solicitation Form

SBOP Form 2
(page 2 of 2)

Pursuant to Part C, Section 4.4 of the SBO Program (**Failure to Negotiate In Good Faith**), the City may find that a Proposer did not meet its Good Faith Negotiation obligation if in the City's judgment, the Proposer rejects an Interested SBE's proposal for reasons other than: (a) the SBE's price proposal was higher than what was proposed by the subcontractor or supplier the Proposer decided to use or higher than the Proposer's cost of performing such work on its own; (b) the SBE was not a "Qualified SBE" as defined in Part A; or (c) the Business Enterprise that will be performing in place of the Interested SBE is more qualified than the Interested SBE, to the extent that such difference in qualification would materially impact the Proposer's Proposal, or (d) there was a material deficiency with the Interested SBE's proposal (such as it being submitted late, containing inaccurate information, etc.).

The undersigned certifies that the information submitted on this FORM 2 is true and accurate as of the date indicated below. The undersign further certifies that contacts by U.S. Postal Service, telephone conversations and in person contacts documented on this FORM 2 were made in accordance with the requirements of Part C, Section 5.3.2 of the SBO Program and that this shall satisfy as the affidavit confirming such contacts.

Company

Signature of Authorized Official

Title

Submittal Date

Sworn to before me this _____ day of _____ 200 _____

NOTARY PUBLIC

My commission expires on _____



Small Business Opportunity Program
Subcontractor / Supplier Utilization Commitment
*This form **MUST** be submitted with your proposal.*

SBOP Form 3
(page 1 of 2)

Proposer Name: _____
Project Name: Demolition 2403 Wilkinson Blvd
Project Number: 269-2010-117
Proposer's VMS # _____

1. Below is a list of all **SBEs** that you intend to use on this contract

SBE Name	Description of work / materials	NIGP code	VMS #	Total Projected \$

☐ I acknowledge that I have inquired with each SBE listed above as to their Certification Status (i.e. - SBE expiration date)

2. Below is a list of all **non-SBEs** that you intend to use on this contract

Firm Name	Description of work / materials	NIGP code	VMS #

Total Subcontractor / Supplier Utilization (including SBEs and Non-SBEs) \$ _____

Total SBE Utilization \$ _____

Total Proposal Amount \$ _____

Percent SBE Utilization (Total SBE Utilization divided by Total Proposal Amount) _____ %

**** If SBE Goal is not met, please provide an explanation here:** _____

Signature of Authorized Official

Printed Name

Title

Submittal Date



Small Business Opportunity Program
Subcontractor / Supplier Utilization Commitment
*This form **MUST** be submitted with your proposal.*

SBOP Form 3
(page 2 of 2)

All Subcontractors and Suppliers must be registered with the City of Charlotte.

Pursuant to Appendix A, Section 8 of the SBO Policy, each subcontractor or supplier (non-SBE and SBEs) that you use on this contract must be registered in the City's vendor management database. You will need to provide the vendor registration number for each subcontractor and supplier used on this contract as a condition for receiving final payment on this Contract.

What happens if you add subcontractors or suppliers after submitting this form?

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, pursuant to Part D of the SBO Program, you must comply with the following:

- You must maintain the level of SBE participation proposed on this form throughout the duration of the Contract, except as specifically allowed in Part D, Section 2.2.
- If you need to add or replace an SBE, you must comply with Part D, Section 5.
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Part D, Section 6.
- A Letter of Intent (**FORM 4**) must also be submitted for each SBE you add subsequent to contract award.

Subcontractor/Supplier Utilization Commitment

Pursuant to Part C, Section 3.6, when the City sets an SBE Goal prior to Proposal opening, the City Solicitation Documents will include a form labeled "Subcontractor/Supplier Utilization Commitment" ("**FORM 3**"), which captures information regarding the SBEs and other subcontractors and suppliers that the Proposer intends to use on the Contract. Failure to properly complete and submit **FORM 3** with the Proposal may result in the City excluding a Proposal from further consideration.

Pursuant to Part C, Section 3.7, within (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Proposers must submit a separate Letter of Intent for each SBE listed on **FORM 3**. Proposers may use the Letter of Intent that the City provides with the City Solicitation Documents or may use an alternative form if it contains the same information as **FORM 4**. Regardless of the form, each Letter of Intent must be executed by both the SBE and the Proposer. The City shall not count proposed SBE utilization for which it has not received a Letter of Intent within such time period, unless the SBE certifies to the City that it originally agreed to participate in the Contract at the level reported by the Proposer, but subsequently declined to do so.

Signature

Your signature on the preceding page indicates that the undersigned Company certifies and agrees that (a) it has complied with all provisions of the SBO Program and (b) failure to properly document such compliance in the manner and within the time periods established by the SBO Program shall constitute a forfeiture of the Company's bid bond, and shall entitle the City to recover under the bid bond and, (c) in the absence of a bid bond, such failure shall entitle the City to recover damages for breach of contract.



Small Business Opportunity Program
Letter of Intent

SBOP Form 4

** Per Part C, Section 3.7, Proposers must submit a separate Letter of Intent for each SBE listed on **FORM 3** within (3) Business Days after receiving a request from the City (or within such longer time as the City may indicate in writing). Proposers may use the **FORM 4** provided with the City Solicitation Documents or an alternative form containing the same information as **FORM 4**. Each LOI must be executed by both the SBE and the Proposer.

Pursuant to Part D, Section 5.3.1, Bidders shall also be required to provide a **FORM 4** for each SBE added to a Contract subsequent to Contract award.

Project Name: Demolition 2403 Wilkinson Blvd

Project Number: 269-2010-117

Proposer's VMS # _____

A. To be completed by the Proposer / Service Provider

Name of Proposer: _____

Address: _____

Contact Person: _____

Telephone: _____ Fax: _____

I, the Proposer, have provided a QuickPay Policy or QuickPay Agreement to this SBE for the work identified below. I have submitted, either previously or with this FORM 4, a copy of said Agreement. YES ☐ NO ☐

B. Identify in complete details the scope of work to be performed or item(s) to be supplied by the SBE. On unit price bids, identify which bid line item the SBE's scope of work or supply corresponds:

C. Cost of work to be performed by SBE: \$ _____

D. Cost of work to be performed by SBE as a percentage of total amount of City contract: _____ %

E. To be completed by SBE

Name of SBE: _____ VMS #: _____

Address: _____

Contact Person: _____

Telephone: _____ Fax: _____

☐ I, the SBE, certify that my SBE Certification with the City of Charlotte is active and up to date.
SBE Certification Expiration Date: _____ / _____ / _____.

Proposer certifies that it intends to utilize the SBE listed above, and that the description, cost and percentage of work to be performed by the SBE as described above is accurate. The SBE Firm certifies that it has agreed to provide such work/supplies for the amount stated above.

Proposer: _____ Date: _____
Signature and Title

SBE Firm: _____ Date: _____
Signature and Title



Small Business Opportunity Program
Good Faith Efforts (GFE) and Statement of GFE Compliance

SBOP Form 5
(Page 1 of 3)

Proposer Name: _____

Project Name: Demolition 2403 Wilkinson Blvd

Project Number: 269-2010-117

Below is a list of Good Faith Efforts as defined in Part C: Section 5.3. To the left of each item is the number of points assigned to that item for this project. **Please place an "X" in the first column for each item you are claiming credit.** Failure to achieve the minimum number of Good Faith Efforts points stated in the blank below shall be considered as a factor in the evaluation process and may result in a Proposal being excluded from further consideration.

Minimum Number of GFE Points Required:

90

☐	15	Section 5.3.1: Notification of Subcontracting Opportunities. Providing to the City not later than fourteen (14) calendar days prior to the Proposal Due Date a list of the areas in which the Proposer intends to seek subcontractors and suppliers. The Proposer may report this information on FORM 1 or on another document providing the same information as FORM 1 .
☐	10	Section 5.3.2: SBE Contacts: To receive credit for this GFE, the Proposer must contact a minimum number of SBEs, as specified in the City Solicitation Documents. Further, a Proposer must submit an SBE Solicitation Form (" FORM 2 ") within three (3) Business Days after the City requests it, unless a different time is specified in the City Solicitation Documents. A Proposer must make the required contacts not less than 14 Calendar Days before the Proposal Due Date to receive credit. Refer to Part C, Section 5.3.2 of the SBO Policy for requirements of the Solicitation Method, Solicitation Content, and Solicitation Documentation.
☐	10	Section 5.3.3: Making Specifications Available. Making any project descriptions, construction plans, specifications or requirements applicable to the project available for review by Interested SBEs at least fourteen (14) calendar days before the Proposal Due Date. To satisfy this requirement, the Proposer must either: (a) provide SBEs with a hard copy of the Project Documents via an acceptable means of document delivery; OR (b) provide necessary physical access and adequate time for SBEs to fully review the Project documents at the Proposer's place of business within the Charlotte MSA or, if the Proposer has no place of business within the Charlotte MSA, at an alternate location within the Charlotte MSA where the information can be reviewed at no cost to SBEs; AND (c) notify all SBEs contacted as part of the Proposer's Section 5.3.2 SBE contacts of the locations (including the address) where plans, specifications, and other documents applicable to the Project, can be reviewed.
☐	10	Section 5.3.4: Attendance at a City Pre-Submittal Meeting. To receive credit for this GFE, the Proposer must attend any pre-submittal meetings scheduled by the City for the Contract in question.
☐	15	Section 5.3.5: Conducting a Pre-Submittal Meeting for SBEs. To receive credit for this GFE, the Proposer MUST conduct a pre-submittal meeting for SBEs at least three (3) Business days prior to the Proposal Due Date. The pre-submittal meeting must take place within Mecklenburg County, or, if the Proposer has no place of business within Mecklenburg County, at an alternate location within the Charlotte MSA. Not less than 48 hours before the pre-submittal meeting, the Proposer must communicate the time and location of the meeting to the SBEs that the Proposer is required to contact to earn GFE points under Section 5.3.2.
☐	40	Section 5.3.6: Training and Mentoring. A Proposer may receive credit for this GFE in one of <u>two</u> (2) ways: (a) Training: Providing training or mentoring to at least two (2) SBEs within 120 Calendar Days before the Proposal Due Date and the Proposer must have the training or mentoring certified by the Program Manager. (b) SBOP Mentor-Protégé Program. The Proposer may also receive credit for this GFE if the Proposer demonstrates that it is participating in the Small Business Development Mentor-Protégé program and that it is a Mentor in good standing. The Program Manager shall have the discretion to deny credit for mentoring and training if the Mentor is not in good standing.



Small Business Opportunity Program
Good Faith Efforts (GFE) and Statement of GFE Compliance

SBOP Form 5
(Page 2 of 3)

Proposer Name: _____

Project Name: _____

Project Number: _____

☐	10	Section 5.3.7: Working with SBE Assistance Organizations. To receive credit for this GFE, the Proposer must document that they have performed one of the following within the (120) calendar day period preceding the Proposal Due Date for an SBE Assistance Organization as defined in Appendix 1 of Part A: (a) Provide location for SBE Assistance Organization Event: Providing a meeting location for the SBE Assistance Organization to host a regular meeting or special event at no cost or at a reduced rate. (b) Provide training for SBE Assistance Organization members: Providing training or facilitating workshops aimed at increasing the capacity or skill level of the SBE Assistance Organization members, or participating in training or a workshop sponsored by the SBE Assistance Organization. (c) Contracting with new SBE: Documenting that the SBE Assistance Organization helped to identify an SBE with whom the Proposer subsequently subcontracted work (whether on a City Contract or other contract). The KBU will not give the Proposer credit for this GFE if the Proposer contracts with an SBE that the Proposer has used on previous projects.
☐	20	Section 5.3.8: Entering Into Joint Venture with SBEs. To receive credit for this GFE, the Proposer must document the existence of a Joint Venture agreement between the Proposer and an SBE that increases opportunities for SBE business participation, whether on City Contracts or other contracts. To document satisfaction of this GFE, Proposers must document that they have entered into such an agreement within the 120 Calendar Days before the Proposal Due Date, and such documentation must include; (a) the name of the SBE; (b) a description of the Joint Venture; (c) evidence of the date the Proposer and the SBE entered into the agreement; and (d) the name of a contact person with the SBE who can verify the terms of the agreement.
☐	25	Section 5.3.9: Facilitating Joint Ventures between SBEs. To receive credit for this GFE, the Proposer must within the 120 Days before the Proposal Due Date facilitate a Joint Venture agreement between SBEs that would not otherwise be able to participate in the Contract. To document satisfaction of this GFE, the Proposer must: (a) comply with Section 3.4.4 (b) submit the names of the two SBEs for which the Proposer facilitated a Joint Venture; (c) provide a description of the steps the Proposer took to facilitate the Joint Venture; and (d) provide a statement from at least one of the SBEs indicating that it would not have been able to participate in the Contract but for the Joint Venture. Additionally, the SBE Joint Venture must be listed on FORM 3 as an SBE participating in the Contract for which the Proposer is submitting a Proposal.
☐	25	Section 5.3.10: Financial Assistance. To receive credit for this GFE, the Proposer must provide one of the following types of assistance to an SBE during the preceding 90 Calendar Days before the Proposal Due Date: (a) assistance in obtaining equipment, a loan, capital, lines of credit, (b) joint pay agreements or guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required; or (c) assistance in obtaining the same unit pricing with the Proposer's suppliers as the Proposer. Such assistance may be in connection with a City Contract or any other contract. To receive credit for this GFE, Proposers must document: (a) the name of the SBE; (b) the description of the assistance the Proposer provided; (c) the date the Proposer provided the assistance; and (d) the name of a contact person with the SBE who can verify that the Proposer provided the assistance was provided.
☐	20	Section 5.3.11: Quick Pay Agreements. For purposes of this Section, the term "Quick Pay Commitment" means a commitment to pay all SBEs participating in the Contract within 20 Calendar Days after the Contractor confirms that the SBE has properly performed and the SBE's work has been properly completed. To receive credit for this GFE, Proposers must either: (a) provide the City with a copy of a policy containing the above-referenced Quick Pay Commitment that the Proposer has adopted for the project and document that the Proposer informed each SBE about the Quick Pay Commitment as part of the Proposer's SBE contacts under Section 5.3.2; OR (b) provide a legally binding Quick Pay Commitment in the form of an Agreement with each SBE that will participate in the Contract up for award. Including a statement in a Proposal solicitation letter indicating that the Proposer will consider entering into quick pay agreements will not suffice.



Small Business Opportunity Program
Good Faith Efforts (GFE) and Statement of GFE Compliance

SBOP Form 5
(Page 3 of 3)

Proposer Name: _____
Project Name: _____
Project Number: _____

☐	20	Section 5.3.12: Attendance at City SBO Workshops or Networking Sessions. To receive credit for this GFE, the Proposer must attend a workshop, seminar or networking session held by the City to (a) educate contractors or SBEs about the requirements of the SBO Program and how Proposers can comply with the Program; or (b) increase the capacity or skill level of SBEs; or (c) provide networking opportunities for SBEs. To receive credit for this GFE, Proposers must document that they attended such a workshop or seminar during the preceding 90 Calendar Days before the Proposal Due Date. The KBU shall not give Proposers credit toward this GFE category for the Proposer's attendance at a Pre-Submittal Meeting.
☐	15	Section 5.3.13: Follow-up Contacts. To receive credit for this GFE, the Proposer must follow-up with each SBE that the Proposer contacted under Section 5.3.2 that did not reply that it was unwilling to participate in the Contract. Additionally, the Proposer must: (a) make each follow-up contact subsequent to the initial contact and at least 48 hours before the Proposal Due Date; (b) make each follow-up contact by telephone or in person and (c) provide documentation for each follow-up contact in accordance with Section 5.3.2.3. The City may request additional documentation in accordance with Section 5.3.2.4, and may verify the contacts as the City deems appropriate.
☐	15	Section 5.3.14: Achieving 50% of SBE Participation Goal. To receive credit for this GFE, the Proposer's Committed SBE Goal must be at least 50% of the SBE Goal established by the City for the Contract.
☐	20	Section 5.3.15: Additional SBE Outreach. To receive credit for this GFE, not less than 7 Days before the Proposal Due Date, a Proposer must contact a cumulative total of 25 SBEs, for the Contract in question. To receive credit, the Proposer must comply with the solicitation requirements outlined in Section 5.3.2.1, Section 5.3.2.2 and Section 5.3.2.3 (a) through (f).
☐	25	Section 5.3.16: SBE Participation On Non-City Contracts. To receive credit for this GFE, the Proposer must document that during the 120 Calendar Days period before the Proposal Due Date, the Proposer used SBEs on non-City contracts where the SBE subcontract value equaled or exceeded the amount the Proposer would have to pay SBEs to meet the SBE Goal for the Contract at issue. To receive credit for this item, Proposers must document for each non-City SBE subcontract: (a) the name of the project and the parties to the contract; (b) the name of the SBEs the Proposer paid on the project; (c) the amount the Proposer paid to each SBE; and (d) any additional documentation requested by the Program Manager for verification purposes.
☐	25	Section 5.3.17: Working With a New SBE. To receive credit for this GFE, the Proposer must document that during the 120 Calendar Day period before the Proposal Due Date, the Proposer hired an SBE that it had not previously contracted with to perform at least \$3,000 of work, whether on a City contract or other contract. To receive credit for this item, Proposers must document: (a) the name of the project on which the Proposer hired the new SBE; (b) the name of the new SBE the Proposer hired; (c) the amount the Proposer paid or the estimated amount the Proposer will pay to the new SBE; and (d) any additional documentation requested by the Program Manager for verification purposes.

320 **Total Available GFE Points**

_____ **Total GFE Points Attained (to be completed by City)**

Per Part C, Section 5 of the SBO Program, if a Proposer has not fully met the SBE Goal, then it must document it has met the GFE requirements by completing this Form. The Proposer must submit **FORM 5** within three **(3) Business Days** after the City requests it, unless specified otherwise in the City Solicitation Documents. Failure to do so shall be considered as a factor in the evaluation process and may result in a Proposal being excluded from further consideration.



Small Business Opportunity Program

SBOP Form 6

Payment Affidavit - Subcontractor / Supplier Utilization

To be submitted with **each** request for payment from the City of Charlotte. *Copy this form as needed.*

Project Name: Demolition 2403 Wilkinson Blvd

Contractor Name: _____ Payment / Invoice # _____

Contract Number: _____ Invoice Amount: \$ _____

Payment Period: From _____ To _____ City KBU: (Department) Neighborhood & Business Services

FINAL PAYMENT ☐ Check this box **only** when submitting Final Pay request.

Section 1: Payments to SUBCONTRACTORS / SUBCONSULTANTS

Complete the chart below for all subcontractors used on the Project/Contract regardless of dollar amount. All subcontractors must be registered in the City's Vendor Management System.

Subcontractor's Name	Description of Work Performed	NIGP Code	City VMS Number	Payment this Period	Cumulative Payments

Section 2: Payments to SUPPLIERS

All suppliers providing goods under City contracts must be listed on the Sales Tax Statement submitted with each pay request. The City may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the City's Vendor Management System and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

The undersigned Company certifies the preceding chart is a true and accurate statement of all payments that have been or will be made to subcontractors and suppliers on this Project/Contract. If no subcontractors or suppliers are listed on the preceding chart, the Company certifies that no subcontractors or suppliers were used in performing the Project/Contract for the payment period indicated. Failure to provide accurate and truthful information is a violation of the Small Business Opportunity Program and is subject to the sanctions prescribed therein.

This _____ day of _____ 200 _____

Signature

Print Name and Title

To be completed by KBU for FINAL PAYMENT

SBE Goal: _____ %

Total Paid to Contractor: \$ _____ SBE Goal Commitment: _____ %

Total Paid to SBEs: \$ _____ SBE Goal Attainment: _____ %



Small Business Opportunity Program

SBOP Form 6

City of Charlotte
Construction Contract Opportunities
Good Faith Negotiation
SBO Program Part B, §4.4

Project Name:			
Bidder:			
Person to contact about this form (include contact number):			
SBE firm that submitted the bid (Interested SBE):			
For what scope of work?		SBE Bid amount:	
Why did you (the Bidder) reject the SBE's bid?			
(a) Was the SBE's bid higher than what was proposed by the subcontractor or supplier the Bidder decided to use or higher than the Bidder's cost of performing such work on its own? Or, for self-performing documentation, was the SBE's bid higher than the Bidder's amount?	Yes, higher than other subs/suppliers ☐	Yes, higher than the Bidder ☐	No ☐
What were the other bids?			
Bidder	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
(Other firm)	Bid amount		
If Bidder is submitting Attachment B with Attachment C, Stop here.			
(b) Was the SBE firm not a "Qualified SBE" as defined in Part A of the SBO Program?	Yes ☐	No ☐	Additional explanation:
(c) Is the Business Enterprise that will be performing in place of the Interested SBE more qualified than the Interested SBE, to the extent that such difference in qualification would materially impact the Bidder's Bid?	Yes ☐	No ☐	Additional explanation:
(d) Was there a material deficiency with Interested SBE's bid?	Yes ☐	No ☐	Additional explanation:
(d1) SBE submitted the bid late?	Yes ☐	No ☐	Additional explanation:
(d2) SBE bid contained inaccurate information?	Yes ☐	No ☐	Additional explanation:
Other material deficiency reasons or other reason for rejecting Interested SBE's bid?	Yes ☐	No ☐	Additional explanation:

The City may also request on a case-by-case basis documentation sufficient in the City's judgment to prove that the Bidder's reasons for rejecting an Interested SBE are valid. Bidders must provide such forms and information within the time period specified by the City. Failure to comply with the requirements set forth in this Section (SBO Program, Part B, §4.4) shall constitute grounds for rejecting a Bid. Notwithstanding the forgoing, Bidders may reject an Interested SBE's bid for work that is being performed by an SBE participating in a mentor protégé program run by the City or recognized as a valid mentor protégé program by the SBO Program manager in his or her sole discretion.

Exhibit B – SAMPLE CITY CONTRACT

As used in this Section of the RFP, the term “Contract” shall refer to the agreement entered into between the City and the successful Service Provider, and the term “Company” shall refer to the successful Service Provider.

RECITALS

WHEREAS, the City issued a Request For Proposals (RFP # 269-2010-117) for DEMOLITION AT 2403 WILKINSON BOULEVARD dated SEPTEMBER 23, 2009. This Request for Proposals together with all attachments and addenda, is referred to herein as the “RFP; and

WHEREAS, the City desires that the Company provide certain DEMOLITION AT 2403 WILKINSON BOULEVARD, and the Company desires to provide such Services; and

WHEREAS, the City and the Company have negotiated and agreed regarding the above-referenced services and desire to reduce the terms and conditions of their agreement to this written form.

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. EXHIBITS.

The Exhibits below are hereby incorporated into and made a part of this Contract. In interpreting this Contract and resolving any ambiguities, the main body of this Contract will take precedence over the Exhibits, and any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below. Each reference to COMPANY NAME in the Exhibits and Appendices shall be deemed to mean the Company.

1.1. EXHIBIT A: STATEMENT OF WORK

2. DEFINITIONS.

This section shall include, but not be limited to, all terms defined in Section 1 of the RFP.

3. DESCRIPTION OF SERVICES.

3.1. The Company shall be responsible for providing the Services described in Exhibit A attached to this Contract and incorporated herein by reference (the “Services”). Without limiting the foregoing, the Company will perform the Services and meet the requirements as set forth in Exhibit A. However, the Company shall not be responsible for tasks specifically assigned to the City in this Contract or in Exhibit A.

3.2. The Company shall perform the Services on site at the City’s facility in Charlotte, North Carolina, except as mutually agreed upon in writing in specific instances by the City.

4. COMPENSATION.

4.1. TOTAL FEES AND CHARGES

The City agrees to pay the Company a fixed price (the “Purchase Price”) as full and complete consideration for the satisfactory performance of all the requirements of this Contract. This amount constitutes the maximum total fees and charges payable to the Company under this Contract including Expenses and will not be increased except by a written instrument duly executed by both parties, which expressly states that it amends this Section of the Contract.



Small Business Opportunity Program
Good Faith Efforts (GFE) and Statement of GFE Compliance

SBOP Form 5
(Page 2 of 3)

Proposer Name: _____

Project Name: _____

Project Number: _____

☐	10	Section 5.3.7: Working with SBE Assistance Organizations. To receive credit for this GFE, the Proposer must document that they have performed one of the following within the (120) calendar day period preceding the Proposal Due Date for an SBE Assistance Organization as defined in Appendix 1 of Part A: (a) Provide location for SBE Assistance Organization Event: Providing a meeting location for the SBE Assistance Organization to host a regular meeting or special event at no cost or at a reduced rate. (b) Provide training for SBE Assistance Organization members: Providing training or facilitating workshops aimed at increasing the capacity or skill level of the SBE Assistance Organization members, or participating in training or a workshop sponsored by the SBE Assistance Organization. (c) Contracting with new SBE: Documenting that the SBE Assistance Organization helped to identify an SBE with whom the Proposer subsequently subcontracted work (whether on a City Contract or other contract). The KBU will not give the Proposer credit for this GFE if the Proposer contracts with an SBE that the Proposer has used on previous projects.
☐	20	Section 5.3.8: Entering Into Joint Venture with SBEs. To receive credit for this GFE, the Proposer must document the existence of a Joint Venture agreement between the Proposer and an SBE that increases opportunities for SBE business participation, whether on City Contracts or other contracts. To document satisfaction of this GFE, Proposers must document that they have entered into such an agreement within the 120 Calendar Days before the Proposal Due Date, and such documentation must include; (a) the name of the SBE; (b) a description of the Joint Venture; (c) evidence of the date the Proposer and the SBE entered into the agreement; and (d) the name of a contact person with the SBE who can verify the terms of the agreement.
☐	25	Section 5.3.9: Facilitating Joint Ventures between SBEs. To receive credit for this GFE, the Proposer must within the 120 Days before the Proposal Due Date facilitate a Joint Venture agreement between SBEs that would not otherwise be able to participate in the Contract. To document satisfaction of this GFE, the Proposer must: (a) comply with Section 3.4.4 (b) submit the names of the two SBEs for which the Proposer facilitated a Joint Venture; (c) provide a description of the steps the Proposer took to facilitate the Joint Venture; and (d) provide a statement from at least one of the SBEs indicating that it would not have been able to participate in the Contract but for the Joint Venture. Additionally, the SBE Joint Venture must be listed on FORM 3 as an SBE participating in the Contract for which the Proposer is submitting a Proposal.
☐	25	Section 5.3.10: Financial Assistance. To receive credit for this GFE, the Proposer must provide one of the following types of assistance to an SBE during the preceding 90 Calendar Days before the Proposal Due Date: (a) assistance in obtaining equipment, a loan, capital, lines of credit, (b) joint pay agreements or guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required; or (c) assistance in obtaining the same unit pricing with the Proposer's suppliers as the Proposer. Such assistance may be in connection with a City Contract or any other contract. To receive credit for this GFE, Proposers must document: (a) the name of the SBE; (b) the description of the assistance the Proposer provided; (c) the date the Proposer provided the assistance; and (d) the name of a contact person with the SBE who can verify that the Proposer provided the assistance was provided.
☐	20	Section 5.3.11: Quick Pay Agreements. For purposes of this Section, the term "Quick Pay Commitment" means a commitment to pay all SBEs participating in the Contract within 20 Calendar Days after the Contractor confirms that the SBE has properly performed and the SBE's work has been properly completed. To receive credit for this GFE, Proposers must either: (a) provide the City with a copy of a policy containing the above-referenced Quick Pay Commitment that the Proposer has adopted for the project and document that the Proposer informed each SBE about the Quick Pay Commitment as part of the Proposer's SBE contacts under Section 5.3.2; OR (b) provide a legally binding Quick Pay Commitment in the form of an Agreement with each SBE that will participate in the Contract up for award. Including a statement in a Proposal solicitation letter indicating that the Proposer will consider entering into quick pay agreements will not suffice.



Small Business Opportunity Program
Good Faith Efforts (GFE) and Statement of GFE Compliance

SBOP Form 5
(Page 3 of 3)

Proposer Name: _____
Project Name: _____
Project Number: _____

☐	20	Section 5.3.12: Attendance at City SBO Workshops or Networking Sessions. To receive credit for this GFE, the Proposer must attend a workshop, seminar or networking session held by the City to (a) educate contractors or SBEs about the requirements of the SBO Program and how Proposers can comply with the Program; or (b) increase the capacity or skill level of SBEs; or (c) provide networking opportunities for SBEs. To receive credit for this GFE, Proposers must document that they attended such a workshop or seminar during the preceding 90 Calendar Days before the Proposal Due Date. The KBU shall not give Proposers credit toward this GFE category for the Proposer's attendance at a Pre-Submittal Meeting.
☐	15	Section 5.3.13: Follow-up Contacts. To receive credit for this GFE, the Proposer must follow-up with each SBE that the Proposer contacted under Section 5.3.2 that did not reply that it was unwilling to participate in the Contract. Additionally, the Proposer must: (a) make each follow-up contact subsequent to the initial contact and at least 48 hours before the Proposal Due Date; (b) make each follow-up contact by telephone or in person and (c) provide documentation for each follow-up contact in accordance with Section 5.3.2.3. The City may request additional documentation in accordance with Section 5.3.2.4, and may verify the contacts as the City deems appropriate.
☐	15	Section 5.3.14: Achieving 50% of SBE Participation Goal. To receive credit for this GFE, the Proposer's Committed SBE Goal must be at least 50% of the SBE Goal established by the City for the Contract.
☐	20	Section 5.3.15: Additional SBE Outreach. To receive credit for this GFE, not less than 7 Days before the Proposal Due Date, a Proposer must contact a cumulative total of 25 SBEs, for the Contract in question. To receive credit, the Proposer must comply with the solicitation requirements outlined in Section 5.3.2.1, Section 5.3.2.2 and Section 5.3.2.3 (a) through (f).
☐	25	Section 5.3.16: SBE Participation On Non-City Contracts. To receive credit for this GFE, the Proposer must document that during the 120 Calendar Days period before the Proposal Due Date, the Proposer used SBEs on non-City contracts where the SBE subcontract value equaled or exceeded the amount the Proposer would have to pay SBEs to meet the SBE Goal for the Contract at issue. To receive credit for this item, Proposers must document for each non-City SBE subcontract: (a) the name of the project and the parties to the contract; (b) the name of the SBEs the Proposer paid on the project; (c) the amount the Proposer paid to each SBE; and (d) any additional documentation requested by the Program Manager for verification purposes.
☐	25	Section 5.3.17: Working With a New SBE. To receive credit for this GFE, the Proposer must document that during the 120 Calendar Day period before the Proposal Due Date, the Proposer hired an SBE that it had not previously contracted with to perform at least \$3,000 of work, whether on a City contract or other contract. To receive credit for this item, Proposers must document: (a) the name of the project on which the Proposer hired the new SBE; (b) the name of the new SBE the Proposer hired; (c) the amount the Proposer paid or the estimated amount the Proposer will pay to the new SBE; and (d) any additional documentation requested by the Program Manager for verification purposes.

320 **Total Available GFE Points**

_____ **Total GFE Points Attained (to be completed by City)**

Per Part C, Section 5 of the SBO Program, if a Proposer has not fully met the SBE Goal, then it must document it has met the GFE requirements by completing this Form. The Proposer must submit **FORM 5** within three **(3) Business Days** after the City requests it, unless specified otherwise in the City Solicitation Documents. Failure to do so shall be considered as a factor in the evaluation process and may result in a Proposal being excluded from further consideration.

4.2. **NO EXPENSES CHARGEABLE.**

The Company shall not be entitled to charge the City for any travel, mileage, meals, materials or other costs or expenses associated with this Contract.

4.3. **EMPLOYMENT TAXES AND EMPLOYEE BENEFITS.**

The Company represents and warrants that the Consultants provided by the Company to perform the Services are actual employees of the Company, and that the Company shall be responsible for providing all salary and other applicable benefits to each Consultant. The Company further represents, warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation and other payments and deductions which are required by law for each Consultant. The Company agrees that the Consultants are not employees of the City.

4.4. **INVOICES.**

4.4.1. Each invoice sent by the Company shall detail all Services performed and delivered which are necessary to entitle the Company to the requested payment under the terms of this Contract.

4.4.2. The Company shall mail all invoices to:

City of Charlotte
Attn: Finance – Accounts Payable
City of Charlotte
600 East 4th Street
Charlotte, NC 28202

4.5. **DUE DATE OF INVOICES.**

Payment of invoices shall be due within thirty (30) days after receipt of an accurate, undisputed properly submitted invoice by the City.

4.6. **PRE-CONTRACT COSTS.**

The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date of this Contract.

4.7. **AUDIT.**

During the term of this Contract and for a period of one (1) year after termination of this Contract, the City shall have the right to audit, either itself or through an independent auditor, all books and records and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of this Contract or the City's payment obligations. The City shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.

5. **TIME IS OF THE ESSENCE.**

Time is of the essence in having the Company perform all Services and deliver all Deliverables within the time frames provided by this Contract and Exhibit A, including all completion dates, response times and resolution times (the "Completion Dates"). Except as specifically stated in this Contract, there shall be no extensions of the Completion Dates. All references to days in this Contract (including the Exhibits) shall refer to calendar days rather than business days, unless this Contract provides otherwise for a specific situation.

6. **NON-APPROPRIATION OF FUNDS.**

If the Charlotte City Council does not appropriate the funding needed by the City to make payments under this Contract for any given fiscal year, the City will not be obligated to pay

amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify the Company of the non-appropriation and this Contract will be terminated at the end of the fiscal year for which the funds were appropriated. No act or omission by the City, which is attributable to non-appropriation of funds shall constitute a breach of or default under this Contract.

7. COMPANY PROJECT MANAGER.

The duties of the Company Project Manager include, but are not limited to:

- 7.1 Coordination of Project schedules and the Company's resource assignment based upon the City's requirements and schedule constraints;
- 7.2 Management of the overall Project by monitoring and reporting on the status of the Project and actual versus projected progress, and by consulting with the City's Project Manager when deviations occur and by documenting all such deviations in accordance with agreed upon change control procedures;
- 7.3 Provision of consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Company's specialist resources that may be needed to supplement the Company's normal implementation staff;
- 7.4 Acting as the Company's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
- 7.5 Facilitation of review meetings and conferences between the City and the Company's executives when scheduled or requested by the City;
- 7.6 Communication among and between the City and the Company's staff;
- 7.7 Promptly responding to the City's Project Manager when consulted in writing or by E-mail with respect to Project deviations and necessary documentation;
- 7.8 Identifying and providing the City with timely written notice of all issues that may threaten the Company's Services in the manner contemplated by the Contract (with "timely" meaning immediately after the Company becomes aware of them);
- 7.9 Ensuring that adequate quality assurance procedures are in place through the Project; and
- 7.10 Meeting with other Service Providers working on City projects that relate to this effort as necessary to resolve problems and coordinate the Services.

8. CITY PROJECT MANAGER.

The duties of the City Project Manager are to (1) ensure that the Company delivers all requirements and specifications in the Contract; (2) coordinate the City's resource assignment as required to fulfill the City's obligations pursuant to the Contract; (3) promptly respond to the Company's Project Manager when consulted in writing or by E-mail with respect to project issues; and (4) act as the City's point of contact for all aspects of the Project including contract administration and coordination of communication with the City's staff. The City shall be allowed to change staffing for the City Project Manager position on one (1) business day's notice to the Company.

9. PROGRESS REPORTS.

The Company shall prepare and submit to the City bi-weekly (or at such other times as may be agreed in Exhibit A) written progress reports, which accomplish each of the following:

- 9.1. Update the project schedule set forth in Exhibit A, indicating progress for each task and Deliverable.

- 9.2. Identify all information, personnel, equipment, facilities and resources of the City that will be required for the Company to perform the Services for the subsequent month.
- 9.3. Identify and report the status of all tasks and Deliverables that have fallen behind schedule.
- 9.4. Identify and summarize all risks and problems identified by the Company, which may affect the performance of the Services.
- 9.5. For each risk and problem, identify the action and person(s) responsible for mitigating the risk and resolving the problem.
- 9.6. For each risk and problem identified, state the impact on the project schedule.

10. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.

The Company shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Company to perform each task comprising the Services, (ii) the City's personnel whose presence or assistance reasonably may be required by the Company to perform each task comprising the Services, and (iii) any other equipment, facility or resource reasonably required by the Company to perform the Services. Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide information, personnel or facilities other than those which Exhibit A specifically requires the City to provide, unless the City can do so at no significant cost. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's failure to provide any information, personnel, equipment, facilities or resources: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) which the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Company shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Company of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility or resource.

11. COMPANY PERSONNEL REMOVAL, REPLACEMENT, PROMOTION, ETC.

- 11.1. 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 provide Services to the City based on experience, qualifications, performance, conduct, compatibility, and violation of City policy or any other reasonable grounds. The addition or promotion of any personnel to key positions within the Project must be approved by the City in writing. The Company will replace any personnel that leave the Project, including but not limited to Key Personnel, with persons having at least equivalent qualifications who are approved by the City in writing.
- 11.2. Unless approved by the City in writing, the Company's personnel set forth in Exhibit A (the "Key Personnel") shall stay on the Project until termination without any material reduction of such Key Personnel's duties, time on the Project or level of involvement. In the event of a breach or potential breach of the foregoing sentence, the Company will use its best efforts to maintain such Key Personnel on the Project (if necessary, in a subcontracting role).
- 11.3. As used in this Contract, the "personnel" includes all staff provided by the Company or its subcontractors, including but not limited to Key Personnel.

12. BACKGROUND CHECKS.

Prior to starting work under this Contract, the Company is required to conduct a background check on each Company employee assigned to work under the Contract, and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under the Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven years; and (b) a reference check.

After starting work under this Contract, the Company is required to, on an annual basis, perform a Background Check for each Company employee assigned to work under the Contract during that 2009, and shall require its subcontractors (if any) to do the same for each of their employees. If the Company undertakes a new project under the Contract, then prior to commencing performance of the project the Company shall perform a Background Check for each Company employee assigned to work on the project, and shall require its subcontractors (if any) to do the same for each of their employees.

If a person's duties under the Contract fall within the categories described below, the Background Checks that the Company will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

- If the job duties require driving: A motor vehicle records check.
- If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
- If job duties include entering a private household or interaction with children: A sexual offender registry check.

The Company must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.

The Company shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.

The City may conduct its own background checks on principals of the Company as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

13. ACCEPTANCE OF TASKS, DELIVERABLES AND MILESTONES.

Within a reasonable time after a particular Deliverable or Milestone has been completed (or such specific time as may be set forth in Exhibit A), the Company shall submit a written notice to the City's Project Manager stating the Deliverable(s) or Milestone that have been met. This notice shall include a signature page for sign-off by the City Project Manager indicating acceptance of such Deliverable(s) or Milestone.

If the City Project Manager is not satisfied that the Deliverable(s) or Milestone has been met, a notice of rejection (a "Rejection Notice") shall be submitted to the Company by the City Project Manager that specifies the nature and scope of the deficiencies that the City wants corrected. Upon receipt of a Rejection Notice, the Company shall: (a) act diligently and promptly to correct all deficiencies identified in the Rejection Notice, and (b) immediately upon completing such corrections give the City a written, dated certification that all deficiencies have been corrected (the "Certification"). In the event the Company fails to correct all deficiencies identified in the Rejection Notice and provide a Certification within thirty- (30) days after receipt of the Rejection Notice, the City shall be entitled to terminate this Contract for default without further obligation to the Company and without obligation to pay for the defective work.

Upon receipt of the corrected Deliverable(s) or Milestone, or a Certification, whichever is later, the above-described Acceptance procedure shall recommence. The City shall not be obligated to allow the Company to recommence curative action with respect to any deficiency previously identified in a Rejection Notice, or more than once for any given Deliverable or Milestone (and shall be entitled to terminate this Contract for default if the Company does not meet this time frame).

14. NON-EXCLUSIVITY.

The Company acknowledges that it is one of several providers of Professional Services to the City and the City does not represent that it is obligated to contract with the Company for any particular project.

15. EACH PARTY TO BEAR ITS OWN NEGOTIATION COSTS.

Each party shall bear its own cost of negotiating this Contract and developing the exhibits. The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date.

16. REPRESENTATIONS AND WARRANTIES OF COMPANY.

16.1 GENERAL WARRANTIES.

- 16.1.1 The Services shall satisfy all requirements set forth in the Contract, including but not limited to the attached Exhibits;
- 16.1.2 The Services provided by the Company under the Contract will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party;
- 16.1.3 The Company has taken and will continue to take precautions sufficient to ensure that it will not be prevented from performing all or part of its obligations under the Contract by virtue of interruptions in the computer systems used by the Company;
- 16.1.4 All Services performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- 16.1.5 Neither the Services, nor any Deliverables provided by the Company under this Contract will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party;
- 16.1.6 The Company and each Consultant provided by the Company to the City shall have the qualifications, skills and experience necessary to perform the Services described or referenced in Exhibit A;
- 16.1.7 All information provided by the Company about each Consultant is accurate; and
- 16.1.8 Each Consultant is an employee of the Company, and the Company shall make all payments and withholdings required for by law for the Company for such Consultant.

16.2 ADDITIONAL WARRANTIES.

The Company further represents and warrants that:

- 16.2.1 It is a legal entity and if incorporated, duly incorporated, validly existing and in good standing under the laws of the state of its incorporation or licensing and is qualified to do business in North Carolina;

- 16.2.2 It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
- 16.2.3 The execution, delivery, and performance of this Contract have been duly authorized by the Company;
- 16.2.4 No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
- 16.2.5 In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
- 16.2.6 The performance of this Contract by the Company and each Consultant provided by the Company will not violate any contracts or agreements with third parties or any third party rights (including but not limited to non-compete agreements, non-disclosure agreements, patents, trademarks or intellectual property rights).

17. OTHER OBLIGATIONS OF THE COMPANY.

17.1. WORK ON CITY'S PREMISES.

The Company and all Consultants will, whenever on the City's premises, obey all instructions and City policies, which are provided to them with respect to performing Services on the City's premises.

17.2. RESPECTFUL AND COURTEOUS BEHAVIOR.

The Company shall assure that its employees interact with City employees and with the public in a courteous, helpful and impartial manner. All employees of the Company in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Company.

17.3. REGENERATION OF LOST OR DAMAGED DATA.

With respect to any data which the Company or any Consultants have negligently lost or negligently damaged, 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.

18. REMEDIES.

18.1. RIGHT TO COVER.

If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the City may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have:

- a. Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Company is again able to resume performance under this Contract; and
- b. Deduct any and all expenses incurred by the City in obtaining or performing the Services from any money then due or to become due the Company and, should the City's cost of obtaining or performing the services exceed the amount due the Company, collect the amount due either from the Company.

18.2. **RIGHT TO WITHHOLD PAYMENT.**

If the Company breaches any provision of this Contract, the City shall have a right to withhold all payments due to the Company until such breach has been fully cured.

18.3. **SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.**

The Company agrees that monetary damages are not an adequate remedy for the Company's failure to provide the Services or Deliverables as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches the Contract.

18.4. **SETOFF.**

Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred as a result of the other party's breach of this Contract.

18.5. **OTHER REMEDIES.**

Upon breach of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.

19. TERM AND TERMINATION OF CONTRACT.

19.1. **TERM.**

This Contract shall commence on the Effective Date and shall be completed within 90 days

19.2. **TERMINATION BY THE CITY.**

The City may terminate the Contract at any time without cause by giving thirty (30) days prior written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, Company shall submit a statement to the City showing in detail the Services performed under this Contract through the date of termination. The forgoing payment obligation is contingent upon: (i) the Company having fully complied with Section 19.8; and (ii) the Company having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each Consultant through the termination date and the percentage of completion of each task.

19.3. **TERMINATION FOR DEFAULT BY EITHER PARTY.**

By giving written notice to the other party, either party may terminate the Contract upon the occurrence of one or more of the following events:

- a. The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in the Contract, provided that, unless otherwise stated in the Contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- b. The other party attempts to assign, terminate or cancel the Contract contrary to the terms hereof; or

- c. The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under the Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default shall identify this Section of the Contract and shall state the party's intent to terminate the Contract if the default is not cured within the specified period.

Notwithstanding anything contained herein to the contrary, upon termination of this Contract by the Company for default, the Company shall continue to perform the Services required by this Contract for the lesser of: (i) six (6) months after the date the City receives the Company's written termination notice; or (ii) the date on which the City completes its transition to a new Service Provider.

19.4. **ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE COUNTY.**

By giving written notice to the Company, the City may also terminate the 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 of the other events of default previously listed):

- a. Failure of the Company to complete a particular task by the completion date set forth in this Contract;
- b. The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, or any covenant, agreement, obligation, term or condition contained in this Contract; or
- c. The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of the Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by the Contract, or failure to provide the proof of insurance as required by the Contract.

19.5. **NO SUSPENSION.**

In the event that the City disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in the Contract, the Company agrees that it will not terminate the Contract or suspend or limit the Services or any warranties or repossess, disable or render unusable any software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

19.6. **CANCELLATION OF ORDERS AND SUBCONTRACTS.**

In the event this Contract is terminated by the City for any reason prior to the end of the term, the Company shall upon termination immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the Company shall submit a statement to the City showing in detail the Services performed under this Contract to the date of termination.

19.7. **AUTHORITY TO TERMINATE.**

The City Manager or any designee of the City Manager is authorized to terminate this Contract on behalf of the City.

19.8. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.**

Upon expiration or termination of this Contract, the Company shall promptly (a) return to the City all computer programs, files, documentation, data, media, related material and any other material and equipment that is owned by the City; (b) deliver to the City all Work Product; and (c) allow the City access to the systems, software, infrastructure, or processes of the Company that are necessary to mitigate the Services to a new service provider.

19.9. **NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS.**

Any 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, nor relieve the Company of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Company from any claim for damages previously accrued or then accruing against the Company.

20. **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 provided by the Company to the City. 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 shift the Services of the Company to another provider or to the City itself as described below (the "Transition Services"). Transition Services may include but shall not be limited to the following:

- Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the Services;
- Notifying all affected service providers and subcontractors of the Company;
- Performing the Transition Service Plan activities;
- Answering questions regarding the Services on an as-needed basis; and
- Providing such other reasonable services needed to effectuate an orderly transition to a new service provider.

21. **CHANGES.**

In the event changes to the Services (collectively "Change"), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references and is attached to this Contract (a "Change Statement"). The Change Statement shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all Milestones and delivery dates and any associated price.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Change Statement. If the receiving party does not accept the Change Statement in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Statement. If the parties cannot reach agreement on a proposed Change, the Company shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the City may require execution by the City Manager or a designee depending on the amount. Some increases may also require approval by Charlotte City County.

22. CITY OWNERSHIP OF WORK PRODUCT.

- 22.1. The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, 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 agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.
- 22.2. 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” under the Confidentiality Contract.
- 22.3. The Company will treat as Confidential Information under the Confidentiality and Non-Disclosure Contract all data in connection with the Contract. City data processed by the Company 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 the Contract.

23. LICENSING.

The Company shall provide notarized copies of all valid licenses and certificates required for performance of the Services. The notarized copies shall be delivered to the City no later than ten (10) days after the Company receives the notice of award from the City. Current notarized copies of licenses and certificates shall be provided to the City within twenty-four (24) hours of demand at any time during the contract term. Licenses and certificates required for this contract include, by way of illustration and not limitation, the following: 1) a business license valid in North Carolina; 2) any additional licenses pertaining to or that may be required to be held by field professionals participating in the contract work.

Failure to obtain a valid Charlotte Business License within thirty (30) days of receiving contract award notification will result in garnishment by the Tax Office from any payments made to the Company.

24. RELATIONSHIP OF THE PARTIES.

The relationship of the parties established by this Contract is solely that of independent contractors, and 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, joint ventures, co-owners or otherwise as participants in a joint or common undertaking; or (iii) make either party an agent of the other, or any Consultant an agent or employee of the County, for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent or employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

25. INDEMNIFICATION.

The Company shall indemnify, defend and hold harmless the City and the City’s officers, employees and agents from and against any and all losses, damages, costs, expenses (including

reasonable attorneys' fees), obligations and other liabilities (including settlement amounts) that arise directly or indirectly from:

- 25.1 Any infringement of any copyright, trademark, patent, or other proprietary rights, or any misappropriation of any trade secrets, in connection with any software, documentation, services or other products supplied directly or indirectly by the Company in connection with the Contract, or any allegation of any of the foregoing (collectively referred to as "Infringement Claims");
- 25.2 Any act(s) of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors (or any allegations of any of the foregoing), 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;
- 25.3 Any acts or omissions of the Company with respect to any of the Services provided by the Company under the Contract (or any allegations of any of the foregoing);
- 25.4 The City's refusal to produce any item of "Confidential Information" (as defined in the Confidentiality and Non-Disclosure Contract) of the Company after receiving a request for such item and after being instructed by the Company not to produce it; or
- 25.5 Any claims by any persons or entities supplying labor or material to the Company in connection with the performance of the Company's obligations under the Contract.

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 Services or any component thereof shall not be adversely affected by such replacement or modification. If the Company is unable to do (i) or (ii) within thirty (30) days after receiving notice of the Infringement Claim the City shall have the right to terminate all Contract documents and receive as a pro rata refund of all amounts paid under the Contract documents.

26. SUBCONTRACTING.

Should the Company choose to subcontract, the Company shall be the prime contractor and shall remain fully responsible for performance of all obligations, which it is required to perform under the Contract. Any subcontract entered into by Company shall name the City as a third party beneficiary.

27. CONFIDENTIAL INFORMATION.

27.1. CONFIDENTIAL INFORMATION.

Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the City or its vendors or licensors or which falls within any of the following general categories:

27.1.1. *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.

27.1.2. *Information of the City or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."*

- 27.1.3. *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.*
- 27.1.4. *Information contained in the City's personnel files, as defined by N.C. Gen. Stat. 160A-168. This consist all information gathered by the City about employees, except for that information which is a matter of public record under North Carolina law.*
- 27.1.5. *Citizen or employee social security numbers collected by the City.*
- 27.1.6. *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.*
- 27.1.7. *Local tax records of the City that contains information about a taxpayer's income or receipts.*
- 27.1.8. *Any attorney / City privileged information disclosed by either party.*
- 27.1.9. *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.*
- 27.1.10. *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*
- 27.1.11. *Building plans of city-owned buildings or structures, as well as any detailed security plans.*
- 27.1.12. *Billing information of customers compiled and maintained in connection with the City providing utility services.*
- 27.1.13. *Other information that is exempt from disclosure under the North Carolina public records laws.*

Categories 27.1.3 through 27.1.13 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.

27.2. RESTRICTIONS.

The Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- 27.2.1. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.
- 27.2.2. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Company, other than an employee, agent, subcontractor or

vendor of the City or Company who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement incorporating substantially the form of this Section of the Contract and containing all protections set forth herein.

- 27.2.3. It shall not use any Confidential Information of the City 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.
- 27.2.4. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.
- 27.2.5. The Company shall use its best efforts to enforce the proprietary rights of the City and the City's vendors, licensors and suppliers (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by this Contract.
- 27.2.6. 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.
- 27.2.7. All materials which constitute, reveal or derive from Confidential 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.
- 27.3. EXCEPTIONS. The parties agree that the Company shall have no obligation with respect to any Confidential Information which the Company can establish:
 - 27.3.1. Was already known to the Company prior to being disclosed by the disclosing party;
 - 27.3.2. Was or becomes publicly known through no wrongful act of the Company;
 - 27.3.3. Was rightfully obtained by the Company from a third party without similar restriction and without breach hereof;
 - 27.3.4. Was used or disclosed by the Company with the prior written authorization of the City;
 - 27.3.5. 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;
 - 27.3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, this Contract will be applicable to all disclosures under the court order or subpoena.
- 27.4. UNINTENTIONAL DISCLOSURE.
Notwithstanding anything contained herein in to the contrary, in the event that the Company is unintentionally exposed to any Confidential Information of the City, the

Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.

27.5. **REMEDIES.**

The Company acknowledges that the unauthorized disclosure of the Confidential Information of the City will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Company breaches its obligations hereunder, the City shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

28. INSURANCE.

28.1. **TYPES OF INSURANCE.**

Company shall obtain and maintain during the life of this Contract, with an insurance Company rated not less than "A" by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:

28.1.1. Automobile Liability - Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.

28.1.2. Commercial General Liability - Bodily injury and property damage liability as shall protect the Company and any subcontractor performing Services under this Contract, from claims of bodily injury or property damage which arise from performance 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 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.

28.1.3. Workers' Compensation and Employers Liability - meeting the statutory requirements of the State of North Carolina, \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.

28.1.4. Professional Liability - as shall protect the contractor and his employees for negligent acts, errors or omission in performing the services under this contract. The amount of such insurance shall not be less than \$1,000,000 per claim.

The Company shall not commence any Services in connection with this Contract until it has obtained all of the foregoing types of insurance and such insurance has been approved by the City. The Company shall not allow any subcontractor to commence Services on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

28.2. **OTHER INSURANCE REQUIREMENTS.**

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

- 28.2.2. City of Charlotte shall be named as an additional insured for operations or services rendered under the general liability coverage. The Company's insurance, except for Automobile Liability, 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 agreement.
- 28.2.3. Certificates of such insurance will be furnished to the City and shall contain the provision that the City be given thirty (30) days' written notice of any intent to amend coverage reductions or material changes or terminate by either the insured or the insuring Company.
- 28.2.4. Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance shall be furnished to the City.
- 28.2.5. If any part of the Services under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above. However, this will in no way relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

29. NON-DISCRIMINATION.

The City is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this section, *prohibited discrimination* means discrimination in the solicitation, selection, and / or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, *prohibited discrimination* also includes retaliating against any person, business or other entity for reporting any incident of prohibited discrimination. It is understood and agreed that not only is prohibited discrimination improper for legal and moral reasons, prohibited discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the City and others.

As a condition of entering into this Contract, the Company represents and warrants that it will fully comply with the City's Commercial 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. The Company understands and agrees that a violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Company from participating in City contracts or other sanctions.

The Company agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Commercial 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 understands and agrees that violation of this clause 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.

30. DRUG-FREE WORKPLACE.

The Company shall provide a drug-free workplace during the performance of this Contract. This obligation is met by:

- 30.1. Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Company's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- 30.2. Establishing 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;
- 30.3. Notifying each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlined in (a) above, and (ii) notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- 30.4. Notifying the City within ten days after receiving from an employee a notice of a criminal drug statute conviction or after otherwise receiving actual notice of such conviction;
- 30.5. Imposing a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by, an employee convicted of drug crime;
- 30.6. Making a good faith effort to continue to maintain a drug-free workplace for employees; and
- 30.7. Requiring any party to which it subcontracts any portion of the Services under the Contract to comply with the provisions of 30.1 through 30.6.

Failure to comply with the above drug-free workplace requirements during the performance of the Contract shall be grounds for suspension, termination or debarment.

31. 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:

PHONE:
FAX:
E-MAIL:

For the City:

Genetta Carothers
City of Charlotte/Mecklenburg County
Procurement Services Division
600 East Fourth Street, CMGC 9th Floor
Charlotte, NC 28202-2850
PHONE: 704-336-5195
FAX: 704-632-8257
gcarothers@ci.charlotte.nc.us

With Copy To (City):

Cindy White
City of Charlotte
City Attorney's Office
600 East Fourth Street
CMGC 15th Floor

Charlotte, NC 28202
PHONE: (704)336-3012
cwhite@ci.charlotte.nc.us

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice, which 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.

32. MISCELLANEOUS.

32.1. ENTIRE AGREEMENT.

This Contract is 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.

32.2. AMENDMENT.

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

32.3. GOVERNING LAW AND JURISDICTION.

The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina, and will be performed in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). The parties further agree that 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, which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.

32.4. BINDING NATURE AND ASSIGNMENT.

This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign any of the rights and obligations thereunder without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

32.5. CITY NOT LIABLE FOR DELAYS.

It is agreed that 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 party hereunder caused by injunction or other legal or equitable proceedings or on account of any other delay for any cause beyond the City's reasonable control. The City shall not be liable under any circumstances for lost profits or any other consequential, special or indirect damages.

32.6. FORCE MAJEURE.

32.6.1. The Company shall be not liable for any failure or delay in the performance of its obligations pursuant to this Contract (and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied: (i) if such failure or delay: (a) could not have been prevented by reasonable precaution, and (b) cannot reasonably be

circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) 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.

32.6.2. Upon the occurrence of an event which satisfies all of the conditions set forth above (a "Force Majeure Event") the Company shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the Company continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

32.6.3. Upon the occurrence of a Force Majeure Event, the Company shall immediately notify the City by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than five (5) days, the City may terminate this Contract.

32.6.4. Strikes, slow-downs, walkouts, lockouts, and individual disputes are not excused under this provision.

32.7. SEVERABILITY.

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

32.8. NO PUBLICITY.

No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City.

32.9. APPROVALS.

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

32.10. WAIVER.

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

32.11. SURVIVAL OF PROVISIONS.

The following sections of this Contract shall survive the termination hereof:

Section 4.3	"Employment Taxes and Employee Benefits"
Section 16	"Representations and Warranties of Company"
Section 19	"Term and Termination of Contract"

Section 22	“City Ownership of Work Product”
Section 25	“Indemnification”
Section 27	“Confidential Information”
Section 28	“Insurance”
Section 31	“Notices and Principal Contacts”
Section 32	“Miscellaneous”

32.12. CHANGE 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 by written notice to the Company. The Company shall notify the City within ten (10) days of the occurrence of a change in control. 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 through the ownership of voting securities, by contract or otherwise.

32.13. DRAFTERS PROTECTION.

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.

32.14. 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 Services. 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 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) and all OSHA regulations applicable to the Services.

32.15. CONFLICT OF INTEREST.

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 the Contract.

32.16. NO BRIBERY.

The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the forgoing has bribed or attempted to bribe an officer or employee of the City in connection with the Contract.

32.17. HARASSMENT.

The Company agrees to make itself aware of and comply with the City's Harassment Policy. The City will not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. Violators of this policy will be subject to termination.

32.18. TAXES.

The Company shall pay all applicable federal, state and local taxes, which may be chargeable against the performance of the Services.