



Centralina Council of Governments

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**REQUEST FOR PROPOSAL  
FOR  
INFORMATION TECHNOLOGY SUPPORT SERVICES**

REQUESTING PARTY: CENTRALINA COUNCIL OF GOVERNMENTS



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## **1. SUMMARY AND BACKGROUND**

Centralina Council of Governments (CCOG) is currently requesting proposals from qualified, professional technology firms for Information Technology Support Services as part of an open competitive vendor selection process. The qualified firm would provide necessary onsite and remote technical services, which would enable CCOG to:

- Protect and secure client data
- Ensure efficient operation of computer systems and equipment
- Ensure consistent availability of network
- Minimize spending and maximize ROI for investment in technology
- Set up new computers

As specified in the Scope of Services section of this Request for Proposal (RFP), the ideal firm will resolve computer systems and network issues in accordance with standard and acceptable Best Practices for maintenance and support benchmarks. The successful firm will be expected to organize Help Desk service calls efficiently and to ensure that there is NO significant computer downtime during normal working hours, generally 8:00 a.m. to 6:00 p.m., Monday through Friday. The firm is expected to report on the status of technology issues and communicate effectively with CCOG staff.

CCOG is a voluntary organization of municipal and county governments serving the Greater Charlotte region. Formed in 1968, CCOG is one of 16 regional councils in North Carolina established by the General Assembly to meet the region's needs on a wide range of governance issues. CCOG serves a nine-county area including Anson, Cabarrus, Gaston, Lincoln, Iredell, Mecklenburg, Rowan, Stanly, and Union. CCOG assists local governments in coordinating for sound regional development and provides a forum to address issues best handled through regional cooperation, planning and action. CCOG provides a variety of services for our region including the administration of state and federal grants in the areas of aging, workforce development, economic development and planning. CCOG also provides technical assistance services to local government members and other organizations in the areas of: regional planning, transportation, energy and environment, local government assistance, and business resources.

CCOG is located in University Research Park in Charlotte, NC with some staff traveling to and working from client sites around the Greater Charlotte region.

## **2. PROPOSAL SUBMITTAL INFORMATION**

This RFP represents the requirements for an open and competitive process. CCOG reserves the right, in its sole discretion, to decline to select any vendor from among those submitting proposals.

**A. Schedule of Events**

Monday, May 1	Request for Proposal distributed
Wednesday, May 17 11:00 a.m.	Pre-submission conference call
Thursday, June 1 5:00 p.m.	Proposal submission deadline
Week of June 19	Interviews
Friday, June 30	Firms notified of selection

**B. Pre-submission Conference Call**

CCOG will conduct a pre-submission conference call on Wednesday, May 17<sup>th</sup> at 11:00 a.m. to respond to questions from prospective firms. The call-in number for this call is 1-888-354-0094 and the conference code is 8063011111.

**C. Interviews**

CCOG will evaluate the proposals and may elect, in its sole discretion, to select one or more firms to be interviewed regarding their qualifications, experience, and ability to perform the requested services. Interviews will be conducted at CCOG’s offices located at 9815 David Taylor Drive, Charlotte, NC 28262. Each firm’s interview will be scheduled for approximately one hour. CCOG will offer to any firms selected for interviews options for at least two time slots during the interview week shown above, and will provide information in advance as to how the interviews will be structured to guide firms’ preparation for the interviews.

**D. RFP Deadline**

To be considered, proposals must be submitted by Thursday, June 1, 2017 at 5:00 p.m. via email to [kweston@centralina.org](mailto:kweston@centralina.org) with the subject line “IT Services RFP.”

Late or incomplete proposals will not be considered. Complete proposals will include all information requested in, and will meet all requirements of, the Proposal Requirements section of this RFP. They will also include the signature and typed name and title of an official agent or representative of the firm authorized to submit the proposal on behalf of the firm.

**3. SCOPE OF SERVICES**

**A. Initial Assessment**

Review of the inventory provided in Appendix A, assessment of the system architecture and equipment for efficiency, recommendations for improving routine support criteria and

eliminating emergency maintenance situations. A report of this assessment shall be submitted within 30 days of beginning of contract and on a quarterly basis as long as the contract is in force. This is to allow for necessary budget planning for the upcoming year.

#### **B. Desktop Application Support**

Performance of basic support functions, including the installation of PCs, laptops, PDAs, printers, peripherals, and office software; diagnosis and correction of desktop application problems, configuring of PCs and laptops for standard applications; identification and correction of user hardware problems, with advanced troubleshooting as needed.

#### **C. Server and Workstation Administrative Services**

Management of networks and computer systems, including complex applications, databases, messaging, servers and associated hardware, software, communications, and operating systems, necessary for performance, security, reliability, and recoverability of the systems; maintain inventory report that includes model and warranty information for network, computer systems, and related technology equipment.

Scheduling of preventive maintenance for equipment in the areas of coverage is properly and promptly performed; maintenance of records for all tickets for both onsite visits and telephone support; development of operations and quality assurance for backup plans and procedures are being followed.

Configuration management, including changes, upgrades, patches, etc. is maintained; management of user logins are documented; and support of software products relating to servers (if applicable) and workstations; timely response to repair and maintenance work for the user.

Monthly audits of employee workstations to ensure applications, virus definitions and firewall settings are updated along with compliance with internal policies; provide monthly service reports summarizing service and system issues; provide monthly report on condition of servers.

#### **D. Network Administration Services**

Maintenance and support of network equipment, including switches, firewalls, routers, and other security devices is included.

Installation and maintenance of printers, scanners, network devices et al; analysis, routine configuration changes, and installation of patches and upgrades; minor cabling if needed; alert notifications in case of failure of equipment.

Proactive monitoring of network equipment, including performance indicators to report on threshold limitations; network performance and capacity management services; continuous troubleshooting are required.

Maintenance of network documentation for daily, weekly, and monthly services is required.

#### **E. Email, Security and Backup Efforts**

Maintenance of CCOG email accounts including, adding, changing, and/or deleting employee accounts as requested; maintenance of virus detection programs on user computers and laptops; performance of monthly security audits, including notification of suspected breaches of security; manage password resets; ensure compliance with HIPAA guidelines; manage off-site backup.

#### **F. Strategic Planning**

Engineering, planning, and design services for major system enhancements, including installations and upgrades of new or existing systems. Examples include major server installation, storage system upgrades, redesign of backup systems, and system relocation. Provide technical leadership for all technology issues. Make recommendations for future purchasing and technology needs. Install new servers, software and hardware and transfer data when acquired. Strategic planning, design, and installation/upgrade of core network systems.

#### **G. Additional Support Services**

Assist in managing the 8x8 VoIP phone system and troubleshooting issues with vendor; development and management of Microsoft SharePoint; assist with setting up SSL certificates through GoDaddy and troubleshooting webhosting issues; set up and maintain remote access portals for desktop use and direct VPN access; troubleshoot software issues with firms such as AccuFund; negotiate rates for new equipment purchases.

### **4. PROPOSAL REQUIREMENTS**

The proposal must include the following items presented in a letter-sized document with 1" margins in Times New Roman 12 point font (or equivalent size font for legibility):

#### **A. Narrative addressing each of the following:**

1. Proposal summary – Summarize why the firm is pursuing the work and how it is uniquely qualified to perform the services.

#### **2. Approach and Methodology**

Description of the approach the firm will use in providing the services requested, following the outline of services listed in the Scope of Services section of this RFP.

Also address these support services issues:

- a. Help Desk description
- b. Description of onsite support
- c. Steps for resolving problem escalation
- d. Final authority regarding conflicts
- e. Response time and goal for resolving problems

#### **3. Qualifications and Project Team**

Description of the firm's qualifications and experience with similar scopes of service, and of the key personnel and other project team members that will serve CCOG's needs if selected:

- a. Firm qualifications: describe how the firm is positioned to provide the services requested, with a history of experience on providing similar services supporting professional organizations located across multiple sites. Include identification of the firm's principals with a summary of their professional qualifications and experience. If any work is proposed to be outsourced or subcontracted, include this information for those partnering firms as well.
  - b. Project Team: The staff assigned to serve CCOG must have demonstrated experience and proficiency in Network management, PC installations, troubleshooting hardware/software issues, software installation/re-imaging/configuration needs, supporting multiple hardware manufacturers. Describe the project team roles and responsibilities of key personnel who will be assigned to serve CCOG, including names, professional qualifications and relevant experience/proficiency in the areas listed above, primary office location, and estimated percent of time dedicated to CCOG services. Also include:
    - Other project team member roles, indicating for each role the responsibilities and areas of expertise/proficiency, number of staff available and their office locations and estimated FTEs. Note that local availability of staff is an important consideration in this RFP;
    - Identification of any partner organizations to whom work will be subcontracted or outsourced, including the roles and responsibilities of those team members as for the firm's own key personnel and other staff; and,
    - The type of criminal and other background checks and other screening/selection criteria used by the firm in its hiring for staff who will be CCOG project team members. Criminal background checks will be required for all staff who will serve CCOG..
  - c. Client/End User Satisfaction – Describe the firm's approach to ensuring both client and end user satisfaction. Provide as an appendix three client references (name, title, address, email and telephone number) to whom similar services have been provided, and provide for each a description of the actual services performed, number of users, and length of tenure.
- B. Proposed Budget & Payment Schedule – Provide proposed budget (either in spreadsheet format or other tabular format) and narrative budget justification, itemizing and providing an explanation for all proposed costs, including subcontracted or otherwise outsourced work, for a fixed fee service contract for a twelve-month period, with an option to renew for a second twelve months. Outsourced or subcontracted work must be clearly identified in the budget and budget narrative, as in the project team narrative. List any services or additional charges (e.g., out-of-pocket expenses for travel, etc.)

which would not be covered in the proposed budget, along with a description of how such services would be billed and a fee schedule of the firm's hourly rates. Each twelve-month period must be shown separately. Payment schedule should also be included and should be on a monthly basis to coincide with the monthly report submission.

- C. Contract – Contract terms and conditions will be based upon CCOG's standard contract forms included in Appendix B of this RFP, and negotiated with the selected firm, if any is selected. All negotiated contractual terms and conditions will be subject to review by CCOG's legal counsel and will include scope, budget, schedule, and other necessary items pertaining to the project. Provide a separate narrative section of the proposal that either identifies any terms and conditions of CCOG's standard contract that the firm cannot accept without changes, specifying the nature of the firm's concern, or indicates that all terms and conditions are acceptable to the firm.
- D. Services Outside of RFP Scope – Firms may provide an appendix describing services beyond the RFP's scope that the firm provides which may be of interest to CCOG.
- E. Process for referring CCOG to other vendors for work outside of firm's scope.

Note: Additional materials may be submitted as optional appendices beyond the required proposal elements described in items A-E of this section, but CCOG in its sole discretion will determine how and whether to consider them in its review of the proposal. Similarly, website citations in the proposal will be treated by CCOG as additional materials submitted as optional appendices.

## **5. PROPOSAL EVALUATION CRITERIA**

CCOG will evaluate all proposals based on the following criteria:

- **Approach and Methodology**
- **Qualifications and Project Team**
- **Satisfaction of Clients/End Users**
- **Proposed Budget & Payment Schedule**



## **APPENDIX A**

### TECHNOLOGY INVENTORY

CCOG's current technological infrastructure is as follows:

#### Hardware

- 17 desktop PCs running Windows 10
- 31 laptops running Windows 10
- 2 laptops running Windows 7
- 1 server running Windows 2003
- 5 servers running Windows 2008
- 1 server running Windows 2012

#### Software

- Microsoft Office 365
- Kaspersky Endpoint Security 10 for Windows

#### Specialized Software

- Accufund – accounting software
- ZixCorp – email add-on to ensure confidentiality

#### Network Printers

- 2 network printer/copier/scanners

#### Phone System

- 8x8 VoIP system
- Polycom VVX 300 phones

## **APPENDIX B**

### **CONSULTING SERVICES AGREEMENT**

This CONSULTING SERVICES AGREEMENT (this "Agreement"), dated as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), is by and between [**CONSULTANT ORGANIZATION LEGAL NAME**], a [describe type of organization; e.g., NC local government, for-profit/non-profit NC corporation, etc.] and having a principal place of business at [street address, city, state ZIP] ("Consultant") and CENTRALINA COUNCIL OF GOVERNMENTS, a North Carolina regional council of governments pursuant to Chapter 160A, Article 20, Part 2 of the General Statutes of North Carolina and having a principal place of business at 9815 David Taylor Drive, Charlotte, North Carolina 28262 ("CCOG"). Consultant and CCOG are each referred to individually as a "Party" and collectively as the "Parties" to this Agreement.

#### **RECITALS**

WHEREAS, Consultant is in the business of \_\_\_\_\_;

WHEREAS, CCOG wishes to engage Consultant to perform certain professional services in accordance with the terms and conditions of this Agreement and as described in one or more statements of work (the "Services"), as may be agreed upon by the Parties in writing from time to time (each a "Statement of Work"); and

WHEREAS, Consultant wishes to provide the Services in accordance with the terms and conditions hereof.

In consideration of the mutual covenants contained herein, the sufficiency and adequacy of which are hereby acknowledged, CCOG and Consultant hereby agree as follows:

#### **ARTICLE I**

##### **Statements of Work**

A. The initial Statement of Work agreed to by the Parties is set forth on Exhibit A hereto. From time to time during the Term hereof (as defined in Section II.A. below), the Parties may, in their discretion, agree in writing to additional Statements of Work. Each Statement of Work is hereby incorporated into this Agreement.

B. CCOG hereby retains Consultant to perform the Services, and Consultant agrees to perform the Services, in conformity with each Statements of Work, subject to the terms and conditions of this Agreement and all applicable local, state, and federal laws and regulations. Consultant will devote such time, efforts and resources to the performance of the Services as are reasonably necessary to accomplish the tasks specified in each Statement of Work. Each Statement of Work shall identify the following:

- (i) That such Statement of Work is entered into pursuant to, and governed by, this Agreement and the date as of which the Statement of Work will be effective;

- (ii) The nature and objectives of the Services, the Services to be performed and the obligations to be discharged by Consultant;
- (iii) The deliverables to be provided by Consultant to CCOG in connection with the Services (the "Deliverables");
- (iv) Functional and/or technical specifications (standards or guidelines) for the Deliverables (the "Specifications");
- (v) Completion and acceptance criteria for the Deliverables;
- (vi) A time schedule for performance of Services by Consultant and a related task plan;
- (vii) The specific resources to be provided by Consultant and the project roles of Consultant's personnel; and
- (viii) The payments to be made to Consultant for Services under the Statement of Work and the basis for calculation of such payments.

C. CCOG may reduce the scope of work in a Statement of Work at any time upon written notice to Consultant. In addition, from time to time, CCOG and Consultant may agree in writing to otherwise amend or enlarge the scope of work in a Statement of Work. Consultant may not decline to accept any changes to the scope of work in a Statement of Work requested by CCOG that reduce the cost of performance, provided that an equitable adjustment in compensation is made for the out-of-pocket costs of any performance or preparation already undertaken by Consultant. Consultant further may not decline any changes to the scope of work in a Statement of Work requested by CCOG that increase the cost or magnitude of performance, provided that the changes do not significantly increase the scope of work and a commensurate increase in compensation is fixed.

D. Consultant shall furnish such written reports, analyses and documentation in connection with the performance of Consultant's Services under this Agreement as CCOG may request in writing from time to time.

## **ARTICLE II**

### **Term**

A. This Agreement shall commence as of the Effective Date and remain in full force and effect for [the remainder of CCOG's fiscal year ending June 30, 20\_\_ (the "Initial Term"), and will continue in effect with automatic renewals for successive one-year terms (each a "Renewal Term" and, together with the Initial Term, the "Term"),][[\_\_\_\_\_] year[s] thereafter (the "Term"),] unless terminated earlier in accordance with the provisions of this Article II. For all Statements of Work under this Agreement, any renewal of the term of the SOW or amendment of CCOG's financial obligations under the SOW, shall be void unless the pre-audit requirements of the North Carolina Local Government Finance Act have been met and attested by signature of CCOG's finance director.

B. Each Statement of Work shall remain in full force and effect in accordance with its terms, unless terminated in accordance with this Article II. In the event that any Statement of Work remains in effect as of the termination or expiration this Agreement, then, notwithstanding anything to the contrary in Section II.A above, this Agreement shall continue in effect solely for the term of, and for purposes of, such Statement of Work.

C. CCOG shall have the right to terminate this Agreement (including all Statements of Work) or any Statement of Work for its convenience at any time by providing 30 days prior written notice to Consultant. Upon such termination, or at the expiration of this Agreement, Consultant shall be paid for the Services satisfactorily completed and performed by Consultant on or before the date of termination that have not previously been paid or reimbursed by CCOG.

D. If either Party materially breaches the terms of this Agreement and/or a Statement of Work and such breach is not cured within 30 days after written notice of such breach is given to the breaching Party, then the other Party may, by giving written notice to the breaching Party, terminate this Agreement (including all Statements of Work) and/or the applicable Statement of Work as of the end of such 30 day period or such later date as is specified in the notice of termination.

E. If this Agreement or a Statement of Work is terminated by CCOG under Section II.D, CCOG shall be entitled, without prejudice to any other rights or remedies available to it, to cause the completion of any pending Services by, at its option, either (i) requesting Consultant to complete the Services, in which case Consultant shall be paid for the Services requested by CCOG that have been satisfactorily completed and performed by Consultant and that have not previously been paid or reimbursed by CCOG, or (ii) causing such Services to be completed in whatever manner it deems expedient (whether by engaging the services of any third party or otherwise) and crediting the reasonable costs and expenses so incurred against any amount due or to become due to Consultant under this Agreement. CCOG shall use reasonable care to mitigate the amount of excess costs for which Consultant may be liable under this Section II.E. If, after termination, it is determined for any reason whatsoever that Consultant did not materially breach this Agreement; or that such breach was excusable as a matter of law, the rights and obligations of the Parties shall be the same as if CCOG had terminated the Agreement in accordance with Section II.C of this Agreement.

F. Within 30 days after the expiration or termination of this Agreement and/or a Statement of Work, Consultant shall deliver to CCOG all Deliverables, writings, documents, tangible work product and copies thereof prepared by Consultant in connection with this Agreement and/or the applicable Statement of Work.

G. The election by CCOG to terminate this Agreement or a Statement of Work in accordance with its terms shall not be deemed an election of remedies, and all other remedies provided by this Agreement or available at law or in equity shall survive any termination. Upon the expiration or termination of this Agreement for any reason, each Party will be released from all obligations to the other arising after the date of expiration or termination, except that expiration or termination of this Agreement will not relieve either Party of its obligations under Sections II.F, III.D., and XIII.B, and under Articles V (Ownership of Work Product), VI (Confidential and Proprietary Information), VII (Warranty and Indemnification), and X (Applicable Law; Jurisdiction; Venue), nor will expiration or termination relieve Consultant or CCOG from any liability arising from any breach of this Agreement. In addition, upon expiration or termination of this Agreement for any reason, Consultant shall promptly deliver to CCOG,

or at CCOG's request destroy, all CCOG Confidential Information (including without limitation all copies thereof) within Consultant's possession or control.

### **ARTICLE III**

#### **Compensation**

A. As sole compensation for the performance of the Services, CCOG shall pay Consultant at the rates and upon the terms set forth in each Statement of Work. Consultant shall invoice CCOG for all fees for Services in accordance with the schedule stated in the Statement of Work. Each invoice will include (i) a breakdown of the work performed and amounts being invoiced to CCOG relating thereto; (ii) if any invoiced amount is based on the number of hours worked during the applicable period, the number of hours and the days such work was performed and description in reasonable detail of the work performed during such hours; and (iii) all total amounts due. CCOG will pay all undisputed invoiced amounts within 45 days after receipt of the applicable invoice.

B. In addition, and except for Statements of Work based on fixed fee compensation or that explicitly exclude such expense reimbursement, CCOG shall reimburse Consultant for reasonable expenses incurred by Consultant in connection with the performance of the Services, provided that such expenses are approved by CCOG in writing in advance and are incurred in accordance with CCOG's then-current travel and expense policy. Unless otherwise expressly indicated in a Statement of Work, Consultant shall submit, at least monthly, statements for Services rendered and expenses incurred in such form and detail as CCOG shall require, by the 15th day of the following month. Each invoice shall reference the applicable Contract Number, the Statement of Work Number and the Task Number.

C. In the event CCOG disputes any amount shown due on such invoice, CCOG shall pay any undisputed amounts in accordance with the applicable payment terms and send a disputed amount notice (setting forth the amount in dispute and the reasons for any such dispute) to Consultant. The parties shall use commercially reasonable efforts to resolve any such dispute.

D. During the term of this Agreement and for a period of three years thereafter, Consultant shall maintain complete and accurate books and records to substantiate Consultant's charges to CCOG hereunder. To the extent Consultant keeps such records in the normal course of its business, such records shall include, but not be limited to, time cards, job cards, attendance cards, job summaries, travel and expense reports, and records of any other supporting documentation for all amounts billable and payments made to it under this Agreement. Either CCOG, or an independent third party on behalf of CCOG, shall have the right to inspect, copy, verify and audit such books and records at any time upon two weeks' prior written notice to Consultant. Consultant shall cooperate fully with CCOG or its designees in connection with the audit, and assist CCOG, or its designees, as is reasonably required. Consultant shall reimburse CCOG the amount of any overpayments, if any, determined to have been paid by CCOG as a result of such audit. In addition, Consultant shall reimburse CCOG for any expenses incurred by CCOG in connection with any audit which results in the correction of a billing error by Consultant in an amount greater than 5% of the charges that were subject to such audit for the period audited.

## ARTICLE IV

### **Delivery and Acceptance**

A. Consultant shall deliver each Deliverable at the times and in the manner specified in the applicable Statement of Work. Unless another process is set forth in a Statement of Work, the Parties shall comply with the delivery, review and acceptance procedures for each Deliverable as set forth in Section IV.B.

B. Upon the delivery of each Deliverable, CCOG shall have 30 days to inspect and test such Deliverable to determine whether it is acceptable. In the event that CCOG notifies Consultant in writing that such Deliverable is unacceptable, Consultant shall, within 30 days following receipt of such notice, remedy such failure and re-deliver such Deliverable to CCOG. The foregoing process shall continue until the Deliverable has been approved in writing by CCOG; provided that CCOG shall have the right at any time to (i) deem any non-conformity to be a material breach of this Agreement; or (ii) accept the Deliverable as a nonconforming deliverable (in which case CCOG may, in its sole discretion, either (a) recover from Consultant CCOG's out-of-pocket costs (which may include amounts paid to CCOG affiliates) incurred in correcting, modifying or otherwise adapting the Deliverable to conform to the Specifications; or (b) withhold (or be refunded) an amount of the fees payable or (paid) to Consultant to reflect the value of the Deliverable actually received relative to the value of the Deliverable had it conformed to the Specifications). Each Deliverable shall be deemed accepted ("Acceptance") when CCOG shall have notified Consultant of its determination (iii) that the Deliverable conforms to the Specifications or (iv) to accept the Deliverable as a non-conforming Deliverable. All warranties made by Consultant under this Agreement shall survive Acceptance of the Deliverables.

## ARTICLE V

### **Ownership of Work Product**

A. Consultant shall make prompt written disclosure to CCOG of all inventions, improvements, discoveries, software (including firmware), and other forms of technology or intellectual property made or conceived or actually or constructively reduced to practice during the term of this Agreement, whether solely or jointly with others, and which are suggested by, or derive or result from, any Services which Consultant may do pursuant to this Agreement, or from any information obtained by Consultant from CCOG or in discussions and meetings with employees of CCOG or its affiliates (such inventions, improvements, discoveries, software (including firmware), and other forms of technology or intellectual property, etc., collectively referred to as "Work Product"). Consultant agrees that CCOG owns and shall continue to own all right, title and interest in and to the Work Product and Deliverables, including, but not limited to all copyrights and renewals and extensions of copyright therein. Consultant shall, and hereby does, exclusively and irrevocably assign, transfer and otherwise convey to CCOG all right, title, and interest in and to the Work Product and the Deliverables, including without limitation all rights of copyright or other intellectual property rights pertaining thereto. Upon CCOG's request and at CCOG's expense, Consultant shall assist CCOG to protect and enforce CCOG's intellectual property rights conferred in this Article V. Consultant hereby waives any and all claims that Consultant may have now or may hereafter have in any jurisdiction to so-called "rental rights," "moral rights" and all rights of "droit moral" with respect to the Work Product and the Deliverables and to the results and proceeds thereof. Consultant agrees to take all appropriate action and to execute any and all documents,

necessary or reasonably requested by CCOG to establish, perfect, effectuate, and preserve CCOG's rights in such Work Product and Deliverables.

B. With respect to any materials owned by or licensed by Consultant from third parties (the "Third Party Materials") being included in any Work Product or any Deliverables, Consultant shall either (i) be responsible for obtaining for CCOG at Consultant's sole cost and expense, and hereby grants to CCOG, a perpetual, irrevocable, worldwide, royalty free, paid-up, transferable, sub-licensable license to use, reproduce, distribute, publicly perform, publicly display, modify and prepare derivative works of such Third Party Materials or (ii) in the event that the immediately preceding requirement in Section V.B.(i) is not possible, Consultant shall obtain CCOG's approval in writing prior to (allowing reasonable time for the options described below) including such Third Party Materials in any Work Product or Deliverables to (a) include such Third Party Materials in the applicable Work Product and/or Deliverables with the rights for CCOG as close as possible to those outlined in Section V.B.(i) above or (b) use alternative Third Party Materials, Consultant IP (as defined below in Section V.C.) and/or Work Product that otherwise meet Consultant's obligations pursuant to this Section V.B.

C. CCOG acknowledges that Consultant may have developed materials prior to entering into this Agreement, and may own other patent, trade secret and proprietary rights in techniques and concepts that were not conceived or first produced by Consultant in the performance of this Agreement (collectively "Consultant IP"). Consultant IP is proprietary to Consultant and shall remain Consultant's exclusive property. Consultant hereby grants to CCOG a perpetual, worldwide, royalty free, paid-up, irrevocable, non-exclusive, transferable, sub-licensable license to Consultant's IP to the extent it is incorporated in any Work Product or Deliverable delivered to CCOG by Consultant hereunder.

## **ARTICLE VI**

### **Confidential and Proprietary Information**

A. All information furnished to Consultant by CCOG and its designated representatives, except previously publicly available information not made public due to Consultant's fault or negligence, whether orally or by means of written material, including without limitation plans, specifications, financial or business data or projections, or any other forms of business information (the "Proprietary Information"): (a) shall be deemed proprietary and shall be held by Consultant in strict confidence; (b) shall not be disclosed or revealed or shared with any other person except those individuals or entities specifically authorized by CCOG in advance; and (c) shall not be used other than for purposes of, and in connection with, the performance of Consultant's Services under this Agreement.

B. All written material provided to Consultant by CCOG shall be and at all times remain the exclusive property of CCOG. All such material and any copies thereof shall be promptly returned upon request of any designated representative of CCOG, and in any event shall be returned by Consultant within 30 days of notice of termination of this Agreement.

C. If Consultant should receive any legal request or process in any form seeking disclosure of, or if Consultant should be advised by counsel of any obligation to disclose, Proprietary Information, Consultant shall provide CCOG with prompt prior notice of such request or advice so that CCOG may seek a protective order or pursue other appropriate remedies to protect the confidentiality of the Proprietary Information. If such protective order or other remedy is not obtained, Consultant agrees to

furnish only that portion of the Proprietary Information which is legally required to be furnished and, in connection with CCOG, to use all reasonable efforts to assure that the information is maintained in confidence by the party to whom it is furnished.

D. Consultant shall not, without prior written consent of CCOG, reveal or disclose to any person the existence of this Agreement, the nature of the projects performed or Services contemplated hereunder, of the status of Consultant's work or analysis except in connection with and to the extent reasonably necessary to the performance of Consultant's undertakings pursuant to this Agreement.

E. In the event of breach of any of the provisions of this Article VI by Consultant, CCOG shall be entitled to equitable relief, including in the form of injunctions and orders for specific performance, in addition to all other remedies available at law or equity.

## **ARTICLE VII**

### **Warranty and Indemnification**

A. Consultant represents and warrants to CCOG that: (i) Consultant has the right to enter into this Agreement and to perform its obligations hereunder; (ii) the Deliverables and the Work Product (other than the Third Party Materials) and all work prepared by Consultant hereunder will be the original work of Consultant and that the Consultant has all rights necessary to convey to CCOG the unencumbered ownership of the Work Product and Deliverables and to license the Third Party Materials as provided herein; (iii) the Deliverables and Work Product and all materials and methodologies used by Consultant in performing the Services will not (a) invade the right of privacy or publicity of any third person, (b) contain any libelous, obscene, indecent or otherwise unlawful material, or (c) infringe any patent, copyright, trademark, trade secret or other proprietary right in any jurisdiction or otherwise contravene any rights of any third person; (iv) all Services to be rendered by Consultant hereunder shall be performed in a diligent, efficient, workmanlike and professional manner by qualified personnel; (v) that, when delivered, the Deliverables, if applicable, will be free of bugs, viruses, defects, design flaws or any disabling code or other devices that may cause the Deliverables or any portion thereof to become erased or inoperable or incapable of performing as intended or affect the operations of other systems; (vi) for a period of six (6) months following the launch thereof, the Deliverables will be (a) free from defects in material and workmanship under normal use and (b) will function as intended in accordance with the Specifications; and (vii) Consultant will, in performing its obligations hereunder, strictly comply with all applicable laws.

B. Consultant shall indemnify and hold harmless CCOG and its respective affiliates from and against all claims, cost, liabilities, judgments, expenses or damages owed to third parties (including amounts paid in settlement and reasonable attorneys' fees) (collectively, "Losses") arising out of or in connection with (i) Consultant's breach (or alleged breach) of any covenants, warranties or representations made herein, (ii) Third Party Materials, or (iii) any act or omission of Consultant which results in (a) any bodily injury, sickness, disease or death; (b) any injury or destruction to tangible or intangible property (including computer programs and data) or any loss of use resulting therefrom; or (c) any violation of any statute, ordinance, or regulation.



## ARTICLE VIII

### **Independent Contractor Relationship**

A. CCOG and Consultant acknowledge that in providing the Services under this Agreement, Consultant is acting solely as an independent contractor and not as an agent or employee of CCOG. Neither Party has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other unless otherwise expressly agreed to in writing signed by both parties. Nothing contained in this Agreement is intended to give rise to a partnership, joint venture or employment relationship between the Parties or to impose upon the Parties any of the duties or responsibilities of partners, joint venturers or employer-employee. Except as so authorized, Consultant agrees to indicate to any third party vendor or customer, as appropriate, that Consultant has no authority to bind CCOG.

B. Persons furnished by Consultant shall be solely the employees or agents of Consultant and shall be under the sole and exclusive direction and control of Consultant. CCOG and Consultant understand and agree, for purposes of federal and state law, that Consultant will not be treated as an employee with respect to Consultant's Services to CCOG as set forth herein; rather, Consultant is to be treated as an independent contractor.

C. Each Party shall be responsible for compliance with all laws, rules and regulations applicable to it. Consultant understands and agrees that Consultant alone shall be responsible to pay Consultant's appropriate share of state, federal and local taxes, including all required prepayments of estimated taxes. Consultant further agrees that Consultant shall indemnify and hold harmless CCOG for any failure to make said payments.

D. Consultant understands and agrees the Consultant is responsible for making the appropriate deductions and payments to the applicable state unemployment insurance agencies and to the applicable state workers' compensation agencies. Consultant further understands that Consultant alone is responsible for obtaining Workers' Compensation Insurance.

E. CCOG retains the right to require Consultant to produce proof of Consultant's compliance with state and federal laws concerning required payroll deductions from earnings.

## ARTICLE IX

### **Insurance Obligations**

Without limiting Consultant's indemnification obligations set forth in Section VII.B. above, Consultant shall provide and maintain at its sole cost and expense during the term of this Agreement, insurance coverage in accordance with best industry practices, and sufficient in any case, to protect the assets subject of this Agreement from loss due to theft, fraud, and /or undue physical damage. Consultant will procure and maintain and ensure that any of its subcontractors approved pursuant to this Agreement procure and maintain insurance as follows:

A. Workers compensation with statutory limits in compliance with applicable State and Federal laws. Employer's liability with minimum limits of **[\$100,000 each accident/\$100,000 disease each employee/\$500,000 disease policy limit] [\$500,000 each accident/\$500,000 disease each**

**employee/\$500,000 disease policy limit] [\$1,000,000 each accident/\$1,000,000 disease each employee/\$1,000,000 disease policy limit].**

B. Blanket employee fidelity coverage equal to the actual value of this Agreement.

C. Commercial general liability covering all operations performed by Consultant or by any subcontractor with a minimum limit of the greater of (i) \$1,000,000 or (ii) the actual value of this Agreement per occurrence with an unlimited aggregate or at amounts to be determined by CCOG, to include Contractual liability covering Consultant's assumption of liability under indemnification of CCOG, with the same limits as in item (B) above.

D. Professional liability (errors and omissions) to cover the performance of the services required under this Agreement with a minimum limit of \$1,000,000 per claim and a \$3,000,000 aggregate.

E. If any motor vehicles owned or leased, automobile liability with a minimum limit of \$1,000,000.

Consultant will provide CCOG with certificates of insurance evidencing the above amounts. Before commencing work, Consultant will furnish CCOG with certificates of insurance on an approved form with "Centralina Council of Governments (CCOG)" named as an additional insured, or alternatively, a copy of the applicable policy endorsement adding CCOG as an additional insured. The certificates or endorsements will provide that policies will not be canceled or changed until 30 days' written notice has been given to CCOG. All insurance will be procured from reputable insurers authorized to do business in North Carolina. Further, upon CCOG's request, Consultant shall provide to CCOG evidence of such insurance coverage reasonably satisfactory to CCOG.

## **ARTICLE X**

### **Applicable Law; Jurisdiction; Venue**

A. The interpretation, validity and enforcement of this Agreement, and all legal actions brought under or in connection with the subject matter of this Agreement, shall be governed by the law of the State of North Carolina (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded).

B. Any legal action brought under or in connection with the subject matter of this Agreement shall be brought only in the United States District Court for the Western District of North Carolina or, if such court would not have jurisdiction over the matter, then only in a North Carolina State court sitting in the County of Mecklenburg, City of Charlotte. Each Party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of this Agreement in any other court or forum.

C. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of this Agreement in the Federal or state courts sitting in the County of Mecklenburg, City of Charlotte, State of North Carolina, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum.

**ARTICLE XI**

**Notices**

All notices under this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or mailed by registered or certified mail, postage prepaid, to the following or to such other person at such other address or may be designated by the parties hereto in writing and notice thereof duly given:

If to CCOG:

Centralina Council of Governments  
Attn: Kelly Weston, Clerk to the Board  
9815 David Taylor Drive  
Charlotte, North Carolina 28262

With a copy to:

Shumaker, Loop & Kendrick, LLP  
Attn: William McNair, CCOG Legal Counsel  
128 South Tryon Street, Suite 1800  
Charlotte, North Carolina 28202

If to Consultant:

[Consultant Organization Legal Name]  
Attn: [authorized person's name & title]  
[Mailing Address, City, ST ZIP]

**ARTICLE XII**

**General Terms**

A. Consent of Waiver

No consent or waiver by CCOG with respect to any provision of this Agreement shall be effective unless made by a duly authorized officer of CCOG.

B. Assignment

No undertaking or rights of Consultant pursuant to this Agreement may be assigned by Consultant to any third party without the express, written consent of CCOG in advance. This Agreement shall insure to the benefit of CCOG, its affiliates, successors and assigns.

C. Severability

If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement; rather, the entire Agreement shall be construed as if not containing the invalid or unenforceable provision, and the rights and obligations of each party shall be construed and enforced accordingly.

D. Entire Agreement

This Agreement constitutes the entire agreement between CCOG and Consultant. The Agreement supersedes all prior communications, representations or agreements, oral or written, with respect to the subject matter hereof and has been induced by no representations, statements or agreements other than those herein expressed. No agreement hereafter made between the Parties shall be binding on either Party unless reduced to writing and signed by an authorized officer of the Party sought to be bound thereby. Should there be any conflict between the terms and conditions of this Agreement (not including the Statements of Work) on the one hand and any Statement of Work on the other hand, the terms and conditions of the applicable Statement of Work shall control to resolve such conflict with respect to such Statement of Work only.

E. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**ARTICLE XIII**

**Other Terms**

A. Exclusive Services

During the term of this Agreement, Consultant agrees to provide CCOG with prior written notice of any similar or like services that Consultant is providing to any other entity that is an actual or prospective competitor of CCOG. Consultant agrees not to retain copies of the Deliverables, furnish any other person copies of the Deliverables, or use the Deliverables on other projects or for any purpose other than in the performance of this Agreement without the prior written consent of CCOG, with the exception of publicly available data.

B. Publicity and Publications

Consultant shall not issue any publicity releases (including news releases and advertising or solicitation materials) or make any other public statement relating to this Agreement or the Services to be performed hereunder without the prior written approval of CCOG. Consultant shall not present or disclose to any person any technical paper, article, or documentary or oral or visual presentation concerning any aspect of CCOG's business without the prior consent and approval of CCOG.

C. Iran Divestment Act

Consultant shall certify in writing at or prior to execution of this Agreement and at or prior to execution of any Statement of Work under this Agreement, or upon renewal or assignment of the same, that Consultant is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58 (such certification referred to as "Iran Divestment Act Certification".)

Consultant agrees that it will require its subcontractors under this Agreement to (a) provide an Iran Divestment Act Certification and (b) include an Iran Divestment Act Certification requirement and "flow-down" provision in such subcontractors' subcontracts under this Agreement. Iran Divestment Act Certifications shall be made using the CCOG Iran Divestment Act Certification form provided by CCOG or the template provided by the NC State Treasurer at [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran).

D. E-Verify

NCGS Chapter 64 Article 2 concerns the use of the free, web-based federal program known as 'E-Verify' or other federally-authorized program to check the work authorization of all new employees in the United States (collectively, "E-Verify").

CCOG affirms that it is exempt from the requirements of NCGS Chapter 64 Article 2 because it is a "governmental body" as defined in that Article.

Consultant agrees that if it is required by NCGS §64 or other statutes to use E-Verify to check the work authorization of all new employees it hires in the United States, it shall do so. Consultant affirms that it is

[a private entity that is required to use E-Verify under NCGS §64 or other statutes.]

[a public entity, including state agencies, counties, or municipalities, that is required to use E-Verify under statutes other than NCGS §64.]

[a private entity that is not required to use E-Verify, having 25 or fewer Employees in North Carolina, as the term "Employees" is defined in NCGS §64.]

[a public entity, including other governmental bodies, that is not required to use E-Verify.]

Consultant agrees that for each Statement of Work that specifies that E-Verify subcontractor requirements apply, it shall not enter into any subcontracts under that Statement of Work unless such subcontractor (a) affirms either its exemption from or compliance with the E-Verify requirements of NCGS Chapter 64 Article 2 and (b) agrees to similarly ensure its subcontractors' affirmation of exemption from or compliance with those statutes.

[Signatures on next page.]

IN WITNESS WHEREOF, this Agreement has been executed by each party's duly authorized representative as of the Effective Date.

**Centralina Council of Governments**

**[Consultant Organization Legal Name]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*"This instrument has been pre-audited in the manner required by the North Carolina Local Government Finance Act."*

\_\_\_\_\_  
CCOG Finance Officer

"This instrument is approved as to form as required by CCOG Policy."

\_\_\_\_\_  
William McNair, CCOG Legal Counsel

## APPENDIX C

### Consulting Services Agreement – EXHIBIT A

#### Initial Statement of Work

**[NAME OF PROJECT]** (the “Project”)

This Statement of Work (this “SOW”), dated as of the \_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), is by and between CENTRALINA COUNCIL OF GOVERNMENTS, a North Carolina regional council of governments pursuant to Chapter 160A, Article 20, Part 2 of the General Statutes of North Carolina and having a principal place of business at 9815 David Taylor Drive, Charlotte, North Carolina 28262 (“CCOG”), and [**CONSULTANT ORGANIZATION or INDIVIDUAL LEGAL NAME; e.g., City of \_\_\_\_\_, ABC, Inc., Jane Doe, etc.**], [describe type of organization; e.g., NC local government, for-profit/non-profit NC corporation, etc.] and having a principal place of business at] [street address, city, state ZIP] (“Consultant”), pursuant to which Consultant will provide to CCOG the services described in this SOW (the “Services”). CCOG and Consultant have [simultaneously/previously] entered into a Services Agreement (the “Agreement”). The Agreement is incorporated into this SOW by this reference. In the event of any conflicting or additional terms between this SOW and the Agreement, the Agreement will govern, except with respect to the Work Plan, Fees, and Additional Provisions provided in Exhibit [A-1], if any, or other items expressly permitted by the Agreement.

<b>SOW As of Date:</b>	<b>Consultant:</b>
<b>CCOG’s Project Manager:</b>	<b>Consultant’s Project Manager:</b>
<b>Email:</b>	<b>Email:</b>
<b>Telephone No.:</b>	<b>Telephone No.:</b>
<b>Work Plan</b>	
<u>Nature and Objectives of Services to be Provided by Consultant:</u> [See Exhibit A-1]	
<u>Time Schedule and Task Plan for Performance of Services by Consultant:</u> [See Exhibit A-1]	
<u>Consultant Project Roles and Resources to be Provided by Consultant:</u> [See Exhibit A-1]	
<b>Deliverables (including technical specifications and completion/acceptance criteria)</b>	<b>Due Dates</b>

[See Exhibit A-1]	
<b>Period of Performance, Terms of Payment and Ceiling Amount</b>	
<p>This Statement of Work is effective from the Effective Date above through _____, with an option for CCOG to renew for another 12 months as specified in Exhibit A-1. Amendment of this SOW, or renewal of its term must be in writing executed by both parties' authorized representative and requires pre-audit certification and attestation by CCOG's finance director. Fees will be as specified in Exhibit A-1. Invoices shall be issued by Consultant [no more frequently than monthly/quarterly,][in equal monthly installments,][upon completion of deliverables or milestones defined in the Work Plan] and payable by CCOG within 45 days of invoice. The amount due to Consultant pursuant to this Statement of Work may not exceed the limit set in Exhibit A-1 unless proper written justification has been submitted to the CCOG Project Manager and approved by a CCOG officer <b>prior to performance of work</b>. If necessary, the Project Manager will issue a revised Statement of Work. <b>Each invoice shall reference the Contract Number, the Statement of Work Number and the Work Plan Tasks(s) under that SOW for which work has been performed.</b></p>	
<b>NC Iran Divestment Act Certification</b>	
<p>___ Consultant's Iran Divestment Act Certification, completed as required by NC law, has been signed by Consultant's duly authorized representative and provided to CCOG at or prior to execution of this SOW, and is hereby incorporated in to this SOW by this reference.</p>	

**Authorization.** This Statement of Work has been executed by each Party's duly authorized representative as of the date below such Party's signature.

**CENTRALINA COUNCIL OF GOVERNMENTS**

**[CONSULTANT ORGANIZATION LEGAL NAME]**

By: \_\_\_\_\_  
 Name: Jim Prosser  
 Title: Executive Director  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

*"This instrument has been pre-audited in the manner required by the North Carolina Local Government Finance Act."*

\_\_\_\_\_  
 Signature of CCOG's Finance Officer

*"This instrument has been approved as to form as required by CCOG Policy."*

\_\_\_\_\_  
 William McNair, CCOG's Legal Counsel