

CONSULTING SERVICES AGREEMENT

This Consulting Services Agreement (this “Agreement”), dated as of the [redacted] day of [redacted], 20[redacted] (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][an individual residing at] [street address, city, state ZIP] (“Consultant”) and North Carolina Association of Regional Councils of Government (“NCARCOGo”), a non-profit NC corporation (“Client”). Consultant and the Client are each referred to individually as a “Party” and collectively as the “Parties” to this Agreement.

RECITALS

WHEREAS, Consultant is in the business of [redacted];

WHEREAS, CLIENT 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, CLIENT 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. CLIENT 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 CLIENT in connection with the Services (the “Deliverables”);
- (iv) Functional and/or technical specifications (standards or guidelines) for the Deliverables (the “Specifications”);

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- (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. CLIENT 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, CLIENT 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 CLIENT 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 CLIENT 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 CLIENT 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 CLIENT'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 CLIENT'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 CLIENT'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. CLIENT 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 CLIENT.

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

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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 CLIENT under Section II.D, CLIENT 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 CLIENT that have been satisfactorily completed and performed by Consultant and that have not previously been paid or reimbursed by CLIENT, 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. CLIENT 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 CLIENT 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 CLIENT 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 CLIENT 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 CLIENT 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 CLIENT, or at CLIENT's request destroy, all CLIENT 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, CLIENT shall pay Consultant at the rates and upon the terms set forth in each Statement of Work. Consultant shall invoice CLIENT 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 CLIENT 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. CLIENT 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, CLIENT shall reimburse Consultant for reasonable expenses incurred by Consultant in connection with the performance of the Services, provided that such expenses are approved by CLIENT in writing in advance and are incurred in accordance with CLIENT's

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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 CLIENT 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 CLIENT disputes any amount shown due on such invoice, CLIENT 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 CLIENT 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 CLIENT, or an independent third party on behalf of CLIENT, 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 CLIENT or its designees in connection with the audit, and assist CLIENT, or its designees, as is reasonably required. Consultant shall reimburse CLIENT the amount of any overpayments, if any, determined to have been paid by CLIENT as a result of such audit. In addition, Consultant shall reimburse CLIENT for any expenses incurred by CLIENT 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, CLIENT shall have 30 days to inspect and test such Deliverable to determine whether it is acceptable. In the event that CLIENT 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 CLIENT. The foregoing process shall continue until the Deliverable has been approved in writing by CLIENT; provided that CLIENT 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 CLIENT may, in its sole discretion, either (a) recover from Consultant CLIENT's out-of-pocket costs (which may include amounts paid to CLIENT 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 CLIENT 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 CLIENT 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 CLIENT or in discussions and meetings with employees of CLIENT 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 CLIENT 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 CLIENT 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 CLIENT's request and at CLIENT's expense, Consultant shall assist CLIENT to protect and enforce CLIENT'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 CLIENT to establish, perfect, effectuate, and preserve CLIENT'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 CLIENT at Consultant's sole cost and expense, and hereby grants to CLIENT, 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 CLIENT'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 CLIENT 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. CLIENT 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 CLIENT 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 CLIENT by Consultant hereunder.

ARTICLE VI

Confidential and Proprietary Information

A. All information furnished to Consultant by CLIENT 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

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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 CLIENT 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 CLIENT shall be and at all times remain the exclusive property of CLIENT. All such material and any copies thereof shall be promptly returned upon request of any designated representative of CLIENT, 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 CLIENT with prompt prior notice of such request or advice so that CLIENT 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 CLIENT, 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 CLIENT, 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, CLIENT 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 CLIENT 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 CLIENT 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 CLIENT and its respective affiliates from and against all claims, cost, liabilities, judgments, expenses or damages owed to third parties (including

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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. CLIENT 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 CLIENT. 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 CLIENT.

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. CLIENT 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 CLIENT 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 CLIENT 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. CLIENT 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:

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- A. Workers compensation with statutory limits in compliance with applicable State and Federal laws. Employer's liability with minimum limits of \$500,000 each accident/\$500,000 disease each employee/\$500,000 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 CLIENT, to include Contractual liability covering Consultant's assumption of liability under indemnification of CLIENT, 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 CLIENT with certificates of insurance evidencing the above amounts. Before commencing work, Consultant will furnish CLIENT with certificates of insurance on an approved form with CLIENT named as an additional insured, or alternatively, a copy of the applicable policy endorsement adding CLIENT 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 CLIENT. All insurance will be procured from reputable insurers authorized to do business in North Carolina. Further, upon CLIENT's request, Consultant shall provide to CLIENT evidence of such insurance coverage reasonably satisfactory to CLIENT.

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:

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If to CLIENT:

North Carolina Association of Regional Councils of Governments
Attn: Robert C. Hiatt
PO BOX 9
Wilson, NC 27894

With a copy to:

Centralina Region Council
Attn: Geraldine Gardner, Executive Director
10735 David Taylor Drive, Suite 250
Charlotte, North Carolina 28262

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 CLIENT with respect to any provision of this Agreement shall be effective unless made by a duly authorized officer of CLIENT.

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 CLIENT in advance. This Agreement shall insure to the benefit of CLIENT, 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 CLIENT 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.

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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 CLIENT 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 CLIENT. 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 CLIENT, 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 CLIENT. Consultant shall not present or disclose to any person any technical paper, article, or documentary or oral or visual presentation concerning any aspect of CLIENT's business without the prior consent and approval of CLIENT.

C. Iran Divestment Act

Each Party affirms that, as of the date of execution of this Agreement, it is not listed on the Iran Divestment Act lists created by the North Carolina State Treasurer pursuant to N.C. G.S. 147-86.58, nor are its subsidiaries or parent companies, if any. If either Party should subsequently become so listed, it shall provide written notice to the other Party as soon as practicable, but within no less than five business days.

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").

CLIENT 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 ***[select one of the following options and delete the other options]***

[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

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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.]

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

**NORTH CAROLINA ASSOCIATION OF
REGIONAL COUNCILS OF
GOVERNMENT**

[CONSULTANT ORGANIZATION NAME]

By: _____

By: _____

Name: Gregory Browning

Name: _____

Title: Board Chair

Title: _____

Date: _____

Date: _____

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

Matthew Dolge, Treasurer

“This instrument is approved as to form as required by CLIENT Policy.”

Joseph J. Santaniello, Legal Counsel