

# REQUEST FOR PROPOSALS

for

## CITIZEN SURVEY DEVELOPMENT



**Winston-Salem**

### RESPONSE INSTRUCTIONS:

Private companies are invited to submit Proposals in response to this RFP for the requested services not later than **4:00 PM, September 15, 2017**. Responses not delivered by this deadline will not be considered by the City of Winston-Salem.

Proposals, in PDF format only, should be submitted to Lauren Tompson at [laurenct@cityofws.org](mailto:laurenct@cityofws.org).

All questions must be submitted in writing to [laurenct@cityofws.org](mailto:laurenct@cityofws.org) by the **End of Question Period** of **5:00 PM, September 6, 2017**. All questions will be responded to via posted addendum.

### Contact Information:

Lauren Tompson  
Office of Performance and Accountability  
336.747.7084  
[laurenct@cityofws.org](mailto:laurenct@cityofws.org)

### Advertised by:

City/County Purchasing  
101 N. Main Street, City Hall 324  
Winston-Salem, NC 27101  
336.747.6936  
[darrenmr@cityofws.org](mailto:darrenmr@cityofws.org)

## Notice to Proposers

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It is the policy of the City that an employee, officer, or agent of City may not participate in any manner in the bidding, awarding, or administering of contracts in which they, or a member of their immediate family, their business partner, or any organization in which they serve as an officer, director, trustee, or employee, has a financial interest.

The successful proposer must comply with all provisions of the Americans with Disabilities Act (ADA), the Equal Employment Opportunity Act (EEOA), and all rules and regulations promulgated thereunder. By submitting a proposal, the successful proposer agrees to indemnify the City from and against all claims, suits, damages, costs, losses, and expenses in any manner arising out of, or connected with, the failure of the Company, its subcontractors, agents, successors, assigns, officers, or employees to comply with the provisions of the ADA, EEOA, or the rules and regulations promulgated thereunder.

All bids must be firm and not subject to increase, unless specified within the provisions of this Request for Proposals (RFP) and mutually agreed upon by the City and the proposer.

No special inducements will be considered that are not a part of the original bidding document.

### City's Rights and Options

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

- To supplement, amend, substitute or otherwise modify this RFP at any time
- To cancel this RFP with or without the substitution of another RFP
- To take any action affecting this RFP, this RFP process, or the services subject to this RFP that would be in the best interests of the City
- To issue additional requests for information
- To require one or more service providers to supplement, clarify, or provide additional information in order for the City to evaluate the responses submitted
- To negotiate a contract with a service provider based on the information provided in response to this RFP.

### Public Records

Any material submitted in response to this RFP will become a "public record" once the proposer's document(s) is opened and the proposer is determined to be a participant in the solicitation process and shall be subject to public disclosure consistent with Chapter 132, North Carolina General Statutes. Proposals submitted under this section shall not be subject to public inspection until a contract is awarded N.C.G.S 143-129.8(d).

### Trade Secrets/Confidentiality

Proposers must claim any material which qualifies as "trade secret" information under N.C.G.S. 66152(3) in their response to this RFP and must state the reasons why such exclusion from public disclosure is necessary and legal.

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

**Do not attempt to designate your entire proposal as a trade secret, and do not attempt to designate pricing information as a trade secret.** Doing so may result in your bid being disqualified.

In submitting a proposal, each Proposer agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who assist City in the selection process. Furthermore, each

Proposer agrees to indemnify and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with disclosing any material, which the Proposer has designated as a trade secret. The City reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

### **Familiarity with Laws and Ordinances**

The submission of a proposal on the services requested herein shall be considered as a representation that the Proposer is familiar with all federal, state, and local laws, ordinances, rules, and regulations which affect those engaged or employed in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the Proposer discovers any provisions in the RFP documents that are contrary to or inconsistent with any law, ordinance, or regulation, it shall be reported to the City in writing without delay.

The Proposer agrees that in carrying out this contract, compliance will be maintained with all applicable federal, state, and local laws, specifically including, without limitations, the Occupational Safety and Health Act of 1970 and Section 1324A, the Immigration Reform and Control Act.

The Proposer certifies that the proposal is made in good faith and without collusion with any person making a proposal or with any officer or employee of the City.

The undersigned further agrees, in connection with the performance of this contract, not to discriminate against any employee or applicant for employment because of race, religion, color, gender, age, handicap, political affiliation, or national origin.

### **Contract Award**

The City reserves the right to hold proposals open for a period of sixty days (60) days after due date before awarding a contract. The City reserves the right to reject any or all proposals, to waive any bid informalities, and to award a contract in its best interest.

### **Ethics Policy / Code of Conduct**

The City of Winston-Salem has establish guidelines for ethical standards of conduct for City representatives and to provide guidance in determining what conduct is appropriate in particular cases. To review the City Ethics Policy, to go: <http://www.cityofws.org/Departments/Finance/Purchasing>

### **Stimulation of the Local Economy**

In an effort to stimulate the local economy, foster development and promote efficiency in the provision of city services and the completion of various city projects, the City of Winston-Salem has undertaken an initiative to strongly encourage all parties contracting with the City of Winston-Salem to evaluate their internal operations and hiring practices and, where appropriate, to initiate efforts to stimulate the local economy by hiring applicants and contractors from the Winston-Salem/Forsyth County Area and by utilizing minority and women contractors and service providers. Such efforts to stimulate the local economy may be accomplished by posting job vacancies with the North Carolina Employment Security Commission, the Piedmont Triad Regional Council of Governments, and the Winston-Salem Urban League; and utilizing the State of North Carolina Office for Historically Underutilized Business database (<https://www.ips.state.nc.us/IPS/vendor/SearchVendor.aspx?hobtain>) or other local resources such as the City of Winston-Salem M/WBE Program to identify Winston-Salem/Forsyth County based contractors and subcontractors. Stimulation of the local economy requires a collaborative effort of both the public and private sector. The city is committed to taking reasonable steps to achieve said goal.

**Iran Divestment Act;** Provider hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list.

### **E-Verify Compliance**

Per N.C.G.S. 143-133.3, Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a subcontractor, the Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

## **Insurance**

The bidder(s) will be required to show proof of insurance as outlined in the Insurance Provisions of Contract Specifications contained herein. The City of Winston-Salem MUST be named as additional insured on the certificate of insurance supplied to the City.

### **GENERAL INSURANCE REQUIREMENTS**

A. The Contractor shall, during the continuance of all work under the Contract, provide the following:

1. Workers' Compensation Insurance as required by the North Carolina General Statutes.
2. Commercial General Liability to protect the Contractor against any and all injuries to third parties, including personal injury and property, and special and consequential damages, resulting from any negligent action, omission or operation by the Contractor or in connection with the services described herein. The insurance shall also include, coverage for explosion, collapse, and underground hazards, where required. This insurance shall provide bodily injury and property damage limits of not less than \$1,000,000 for each occurrence, respectively, and shall provide at least \$5,000 in Medical Expenses (Med Pay) coverage.
3. Maintain Owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor in furtherance of these services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/each accident.
4. If this Agreement is for a design, engineering or consulting Service, maintain Professional Liability insurance of at least \$1,000,000.00 per incident.

B. The Contractor will provide an original, signed Certificate of Insurance, evidencing such insurance and such endorsements as prescribed herein, and shall submit the certificate with its executed contract. The City of Winston-Salem shall be named as an additional insured in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the City of Winston-Salem may possess.

C. The Contractor will secure and maintain all insurance policies of its subcontractors which shall be made available to the City of Winston-Salem on demand. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities and obligations under this heading or under any other section or provisions of the Contract.

D. The Contractor will provide on demand certificate copies of all insurance coverage on behalf of the Contract within ten days of demand by the City of Winston-Salem. These certified copies shall be sent to the City of Winston-Salem from the Contractor's insurance agent or representative.

E. The Contractor shall furnish the City of Winston-Salem thirty days written notice of any changes or cancellation of the policy. The failure of the contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the Risk Manager, City of Winston-Salem.

F. Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Contractor fail to provide acceptable evidence of current insurance within seven days of written notice at any time during the Contract Term, the City of Winston-Salem shall have the absolute

right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City of Winston-Salem for the entire additional cost of procuring the uncompleted portion of the contract at time of termination.

G. Contractual and other Liability insurance provided under this Contract shall not contain a supervision inspection or engineering services exclusion that would preclude the City of Winston-Salem from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on the job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.

H. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City of Winston-Salem. The Contractor shall be as fully responsible to the City of Winston-Salem for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

I. Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service at all times by the Contractor during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.

### **Contract**

The successful bidder for this service will be required to execute the City's "Independent Contractor Agreement," a sample copy of which is attached to this document. No work may begin until the contract is fully executed by both parties and a Purchase Order is issued.

# INSTRUCTIONS TO PROPOSERS

## **INTRODUCTION:**

This entire set of documents constitutes the RFP. The proposer must return the RFP with all information necessary to properly analyze the proposer's response in full, in the same numerical order in which it was issued. Proposer's notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFP text is followed. All proposals shall be returned as instructed on page 1. Late proposals will not be considered.

## **Proposer Questions and Inquiries**

See page 1 for submitting questions to this RFP. The City will provide written responses to all inquiries received by this date, and responses will be made available to all recipients of this RFP. Any oral responses made by any representative of the City may not be relied upon. Any supplements or amendments to this RFP will be in writing and furnished to potential bidders.

## **RFP Response Submission**

Proposals must be submitted as instructed on Page 1.

Proposals must be made in the official name of the individual, firm, or corporation under which the business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the business entity submitting the proposal.

Any and all proposals to this RFP are to be prepared at the cost and expense of the respondents, with the express understanding that there may be no claims whatsoever for the reimbursement of any costs, damages, or expenses relating to this procurement from the City or any other party for any reason (including the cancellation of this RFP).

All proposals should be complete and carefully worded and must convey all of the information requested by the City. If errors or exceptions are found in the proposal, or if the proposal fails to conform to the requirements of the RFP, the City will be the sole judge as to whether that variance is significant enough to reject the proposal.

Proposals should be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form. The City reserves the right to reproduce proposals for internal use in the evaluation process.

Proposers are expressly forbidden from contacting any other city employee or city of Winston-Salem elected official regarding this Request for Proposals. Any such outside contact may result in disqualification from the request for proposal process.

# SCOPE OF WORK

## Citizen Survey Development

### 1. INTRODUCTION

The City of Winston-Salem is soliciting proposals from qualified organizations for services to develop a survey of City residents through random sampling methods that produces a confidence level of 95% with a +/- 5% margin of error.

### 2. BACKGROUND

Winston-Salem is located in the Piedmont Triad region of North Carolina, and is the fourth-largest city in North Carolina. The City measures approximately 132.4 square miles and is home to a growing population of more than 240,000 residents and 93,267 households.

The areas of education, health care, technology and manufacturing are the major employment categories. Residents and businesses have invested heavily into a surging revitalization of the downtown areas, including the emergence of the City's Innovation Quarter. Winston-Salem also has a rich Moravian history, dating back to its founding in 1851.

### 3. PROPOSALS (maximum of 20 pages)

Proposals should respond directly to all criteria outlined in this RFP in a clear and succinct format. Issuance of this RFP does not guarantee a contract will be awarded to any proposer. The City may reject as non-responsive, at its sole discretion, any proposal or any part thereof that is incomplete, inadequate in its reply, or does not address each of the following areas:

#### 3.1 Executive Summary, Approach and Project Understanding (1-2 pages)

Each response shall include an Executive Summary that provides a brief narrative or overview explaining the organization's overall approach to citizen engagement and how the proposed solution will meet the City's requirements indicated in this RFP. The Executive Summary shall be structured so anyone reading only that section has a clear understanding of the proposed services. The intent of this summary is to convey to the City that the organization understands the nature of the work, has the required professional skill set, and understands the level of effort necessary to successfully provide the defined services.

#### 3.2 Organization Information, Team and Professional Qualifications

- A. Name of your organization, address, telephone number, and contact information for the individual with primary responsibility for this proposal, including email address.
- B. Provide information as to the qualifications and experience of all executive, managerial, legal and professional personnel to be assigned to this project. Include resumes for proposed lead staff, being sure to note previous work completed that is applicable. Please indicate who from your organization will present findings and analysis to the City Council and City staff. We understand that scheduling may influence availability. Please feel free to list multiple options for the representative who would provide the presentation. Please note the appropriate travel and presentation pricing for the representative as part of the cost proposal.

- C. Provide demographic information for full time employees in your organization and the location of your nearest office to Winston-Salem. (use attached **Demographics Page**)
- D. Provide biographical profiles of the individual(s) who will be assigned to the project, their office location, and work contact information.
- E. Provide an overview of your organization’s qualifications and experience in working with governmental clients. List all governmental clients currently under contract and any governmental clients that have terminated their relationship with your organization during the last three (3) years.
- F. Comment on your organization’s commitment to minority and women employment. Indicate the expected percentage of participation in the proposed services by minority and women staff members.

3.3 **Statement of Work** (summary “how” description, 1-3 pages)

A. Survey Design

- 1. Format the survey questions in the appropriate manner for distribution to selected citizens.
- 2. Provide survey format in both English and Spanish.
- 3. Indicate the ability for the City to have all custom questions, if desired.
- 4. Written approval from City staff agreeing to the survey content.

B. Survey Administration

- 1. Provide a selection of City residents generated through random sampling methods that produces a confidence level of 95% with a +/- 5% margin of error. Adhere to respondent privacy/confidential practices.
- 2. Provide each selected citizen with a survey delivered through postal mail. Each mailed survey should have the option to submit responses on a computer or mobile device (phone, tablet, ect). Provide appropriate safe guards to prevent duplicative participation. Appropriate geographic sampling strategies should be implemented to assist with gaining citywide representation.
- 3. Administer the survey until the minimum number of completed surveys is achieved. Minimum number will depend on the selection determined by the City.
- 4. Include alternative options intent on raising the participant response rate. Alternative options may include targeted phone follow-up, incentives or another method that has been demonstrated to raise participation and response rates by a reasonable percentage.

C. Survey Results, Reporting and Analysis

- 1. Conduct data entry, quality assurance for processes leading up to administering surveys, and quality control prior to delivering the final report to the City.



2. Provide benchmark data, when available and applicable.
3. Provide tabular data for results in Excel format.
4. Provide cross tabulations for all key demographic variables. Results should be provided in both weighted and unweighted formats. Weighting may occur if needed to reflect the community's demographics based on Census data.
5. Provide a formal report with summary and charts.
6. Provide respondent locational data at the highest appropriate resolution that still adhere to respondent privacy/confidential practices.
7. Present the survey's results and analysis to City Council and staff during an onsite visit.
8. Agreement that all instruments, documentation, collaborations and presentations created through the processes described in this RFP for the City of Winston-Salem will be retained by the City for use in future citizen engagement efforts. At a minimum, electronic copies of same will be delivered to the appropriate city staff. Any proprietary work product or process will be identified prior to submission of final reports and presentation(s).

#### 3.4 **Benchmark / Historical Data** (include in statement of work summary)

Please indicate how peer benchmark data will be presented, meaning, will benchmark data be presented for similar sized jurisdictions only, for all jurisdictions that asked similar questions, or is there an opportunity to have benchmark data presented in both manners.

Please indicate whether your organization has any historical survey data for the City of Winston-Salem. If your organization has historical survey data for the City of Winston-Salem, please indicate whether you are willing to share this data within the quoted pricing indicated in the Cost Proposal section.

#### 3.5 **Schedule** (1 page)

Provide a schedule framework that specifically identifies project milestones for each phase of delivery with a **final completion date (presentation of final survey data to City) no later than February 14, 2018**. Assume that the City will make its vendor selection by September 29, followed by required paperwork, and the selected vendor will have an official start date of October 18, 2017.

#### 3.6 **References** (1-3 pages)

Provide a list of at least three references for which similar work has been performed (within past five years) whom the City may contact regarding qualifications and past performance. The list must include organization name, the title of contact, telephone number, email address for contact, and a brief description of the client. Particular emphasis should be given to local government clients.

3.7 **Cost Proposal** (this page)

The City desires the most effective combination of price, performance, and quality possible within the constraints of its budget. The City’s preference is for a not-to-exceed price. Pricing given must be inclusive of all expenses, including travel related expenses. Personnel costs (including estimated hours and rate per hour for each category of personnel) should be itemized. All costs not explicitly stated in the price quotations shown in the proposal will be excluded from payment consideration by the City in the event that a contract is awarded based on the proposal.

Based on a proposal of 500 completed surveys at a 95% level of confidence at the City level, Proposers shall give costs for the following:

**ITEMIZED COST PROPOSAL**

Number of questions (in addition to standard demographic questions)	50	100	150
<b>SURVEY DESIGN</b>			
1. Survey Design	\$	\$	\$
a. Bi-lingual Survey (Spanish and English)	\$	\$	\$
<b>SURVEY ADMINISTRATION</b>			
2. Sample Selection	\$	\$	\$
3. Survey Administration	\$	\$	\$
a. Selected Citizen Informational Post Card	\$	\$	\$
b. Survey Mail Delivery with Cover letter	\$	\$	\$
c. Internet/Mobile Device Support	\$	\$	\$
4. Increased Response Rate Alternatives	\$	\$	\$
a. Targeted Phone Follow-up (per call)	\$	\$	\$
b. Incentives Upon Completion*	\$	\$	\$
<b>SURVEY RESULTS, REPORTING AND ANALYSIS</b>			
5. Benchmark Data (when applicable)	\$	\$	\$
6. Tabular Data (results only)	\$	\$	\$
7. Cross Tabulations for Key Demographic Data	\$	\$	\$
8. Importance-Performance Quadrant Priorities Analysis	\$	\$	\$
9. Formal Report with Summary and Charts	\$	\$	\$
10. Onsite Results Presentation to City Council and Staff (include all related travel expenses)	\$	\$	\$
a. Representative A (include representative’s name):	\$	\$	\$
b. Representative B (include representative’s name):	\$	\$	\$
11. Additional Costs (please specify):	\$	\$	\$

\* Can provide additional details as necessary on additional page.

#### **4. SELECTION CRITERIA**

Proposals will be evaluated by a committee of City staff for quality, completeness and price-value to the City. The proposal will be the primary source of information used in the evaluation process. Each proposal will be evaluated and ranked based on the organization's ability to meet the performance requirements of this RFP. Failure to submit all information requested may result in the elimination of the proposal from consideration.

## PROPOSAL SIGNATURE PAGE

**The signature page must be completed and submitted with the proposal:** Proposals are to be signed by an officer of the company authorized to bind the submitter to its provisions. Failure to manually sign the appropriate proposal form will disqualify the proposer and the proposal will not be considered.

Date	Business Name
Authorized Signature	Street Address (or P.O. Box)
Printed Name / Title	City, State and Zip Code
Email Address	Telephone Number

The following information is requested for M/WBE reporting and is not a basis for awarding this contract. Bidder certifies that:

We      are a minority business enterprise (MBE)  
        are not a minority business enterprise

If yes, please identify in the appropriate box below:

- Black
- Hispanic
- Asian American including Indian Subcontinent and Pacific Islands
- Native American Indian including Eskimos and Aleuts

We      are a woman-owned business enterprise (WBE)  
        are not a woman-owned business enterprise

# DEMOGRAPHICS PAGE

**Exhibit A**

Project/Bid Description: Contract for  
 Bidder's Company Name: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 \_\_\_\_\_

<b>WORKFORCE DEMOGRAPHICS</b>
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Gender		Race/Ethnic Identification					
Male	Female	White	African- American	Hispanic	Asian	Native- American	Total
							<b>0</b>
% of Total							

**Prepared by:**

Name of Preparer \_\_\_\_\_  
 (Print or Type)

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Title)

Phone Number: \_\_\_\_\_

Email Address \_\_\_\_\_

The above demographic data is provided to reflect generally the company's efforts to achieve diversity in the workplace in compliance with the applicable equal employment opportunity laws; however, this information is not dispositive of such and may not be used as the basis for awarding or rejecting a bid contract.

**THIS IS A SAMPLE CONTRACT FOR REFERENCE ONLY  
ACTUAL CONTRACT MAY DIFFER**

**THIS INDEPENDENT CONTRACTOR AGREEMENT** (hereinafter, this "Agreement"), entered into this \_\_\_\_ of \_\_\_\_\_, 20\_\_, by and between the **CITY OF WINSTON-SALEM**, a North Carolina municipal corporation, (hereinafter, the "City") and \_\_\_\_\_ (hereinafter, "Contractor").

**WHEREAS**, the City and Contractor desire to enter into an Agreement whereby Contractor shall provide the following Service:

**NOW, THEREFORE**, in consideration of the mutual promises and obligations herein set forth, the sufficiency and adequacy of which is hereby acknowledged, the parties and their respective successors, assigns, executors, administrators, and legal representatives, hereby agree as follows:

**General Terms.** The Contractor shall provide the Service set forth hereinabove, in consideration for payment of no more than \$ \_\_\_\_\_, based on unit prices contained in the Contractor's proposal which is dated \_\_\_\_\_ attached hereto and incorporated herein by reference. Should any term of the attached proposal conflict with the terms contained in this Agreement, the terms of this Agreement shall control and supersede those terms of the Contractor's proposal. The Contractor and its agents, employees, and subcontractors shall perform the Services herein with the degree of care and skill ordinarily exercised, under similar circumstances, by similar contractors/consultants/service providers in the same general location. The Contractor further warrants that it knows and is familiar with all applicable laws, regulations, and standard practices regarding these Services and has the expertise necessary to properly perform the obligations undertaken by this Agreement. The Contractor, and its employees and subcontractors, shall perform the Services herein as independent contractors and are not entitled to employee benefits of any kind. This Agreement will not be construed in any way to be a joint venture, partnership or employer-employee relationship. Neither party may assign, transfer, or delegate any of the rights or obligations herein without the prior written consent of the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina and the venue for any litigation arising out of this Agreement shall be Forsyth County.

**Payment.** Contractor shall invoice City no more or less than once every 30 days. The City has the right to request that the Contractor provide reasonable documentation to support an invoice.

**Taxes, Licenses, Permits and Certifications.** The Contractor further understands and agrees that it is responsible for the payment of all applicable Federal, State, and Local income and property taxes. In addition, the Contractor shall: (1) obtain and maintain any licenses, permits, and certifications required to perform the Services set forth in this Agreement; (2) properly register with the State of North Carolina (Secretary of State's office) where required and the Forsyth County Register of Deeds office if doing business under an assumed name prior to tendering a bid, if applicable, or executing this Agreement, whichever occurs first; (3) pay any and all other outstanding debts and financial obligations to the City, if any, providing receipts for payment of the same upon execution of this Agreement and (4) provide copies of: (i) all items required by items #1, #2, and #3 hereinabove; and (ii) any and all amendments thereto and renewals thereof to the City. Failure to provide one or more of the items herein required shall be grounds for termination of this Agreement. The City, in its sole and absolute discretion, may withhold any amounts due Contractor based upon items #1 through #3 herein from Contractor's payment for Services rendered pursuant to this Agreement. By execution of this Agreement, Contractor gives City written permission to withhold from Contractor's payment amounts due in satisfaction of Contractor's financial obligations as set forth above in items #1 through #3. The Contractor shall give

the City at least thirty (30) days written notice prior to any cancellation, modification or non-renewal of any license, permit or certification required by Federal, State or Local law.

**Release and Indemnity.** The Contractor hereby releases and forever discharges the City, its officers, agents, and employees, from any and all claims, demands, expenses, costs, and liabilities of any kind or nature directly or indirectly related to any personal injury and/or property damage arising out of the performance of the Service, except those claims that result from the sole negligence of the City or a City employee acting within the scope of the employment. The Contractor shall indemnify, defend and hold harmless the City, its officers, agents, and employees from and against any and all claims, demands, expenses, costs, and liabilities of any kind or nature to the extent proximately caused by the intentional, negligent, or reckless acts or omissions of the Contractor and its agents or employees, in the performance of these Services.

**Insurance.** During the performance of the Service described herein, the Contractor shall: (1) Maintain Commercial General Liability to protect the Contractor against any and all claims, demands, expenses, costs, and liabilities to the extent proximately caused by the negligent acts or omissions of the Contractor and its agents or employees, in the performance of these services. The insurance shall also include, coverage for explosion, collapse, and underground hazards where required. This insurance shall provide bodily injury and property damage limits of not less than \$1,000,000 for each occurrence, respectively. (2) If this Agreement is for a design, engineering, or consulting Service, maintain Professional Liability insurance of at least \$1,000,000.00 per claim. (3) Maintain owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor in furtherance of these Services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy or a Commercial General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/each accident, and shall provide at least \$5,000 in Medical Expenses (Med Pay) coverage. (4) Maintain Workers' Compensation and Employer Liability insurance if required by North Carolina law. (5) Return with this Agreement, before beginning the Service, an original, signed Certificate of Insurance, evidencing such insurance, indicating that the policy has been endorsed to include the City as an additional insured, but only with respect to liability arising out of operations of Contractor or in connection with the services described herein and excluding Professional Liability and Workers Compensation insurance, and stating that the coverage is primary to any other coverage the City may possess. The Contractor shall furnish the City thirty days prior written notice of any cancellation, non-renewal (without replacement), or material reduction of coverage or limits of any policy referred to herein. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the City's Risk Manager. Insurance coverage required in these specifications shall be in force throughout the Term. Municipal Exclusions, if any, for General Liability coverage shall be deleted. Should Contractor fail to immediately provide acceptable evidence of current insurance in the form of a Certificate of Insurance at any time during the Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City for all available remedies – in equity and at law. (6) The Contractor will secure evidence of all insurance policies in the form of Certificates of Insurance of its subcontractors which shall be made available to the City on demand. The Contractor shall require its subcontractors to name the Contractor and the City as additional insured parties on the subcontractor's general and automobile liability insurance policies. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons employed by them as it is for the acts and omissions of persons directly employed by it. (7) Contractual and other liability insurance provided under this Contract shall not contain a supervision inspection or engineering services exclusion that would preclude the City from supervising and/or inspecting the project as to the end result.

**Termination.** Unless otherwise agreed upon in writing by the parties, this Agreement may be terminated by either party for convenience with no less than ten calendar days' notice. In the event of termination, the Contractor will be paid for all Services properly rendered to the date of termination and shall promptly discontinue all Services affected (unless a termination notice from the City directs otherwise). In the event of any termination, the Contractor will be paid for all Services properly rendered to the date of termination and shall (i) promptly discontinue all Services affected (unless a termination notice from the City directs otherwise); and (ii) deliver to the City all documents, data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing the Services herein. Other than being paid for Services properly rendered to the date of termination, Contractor hereby waives any and all other claims for lost profits, lost opportunity, and for any and all other direct, indirect, special, and consequential damages. In the event that the City terminates this Agreement due to the Contractor's poor workmanship, failure to perform the Service set out herein or, otherwise, for breach of this Agreement, or in the event that the Contractor terminates this Agreement for convenience or otherwise, the City may pursue and recover all remedies available at law or in equity, as these remedies are cumulative and do not exclude each other.

**Reuse of Documents.** All documents, including drawings, specifications, supporting calculations, computer software, etc., prepared by the Contractor pursuant to this Agreement are instruments of Service with respect to this Agreement and Contractor shall provide at least one copy of each to City upon City's request. Upon completion of the Services and payment in full of all monies due to the Contractor, the Owner shall receive ownership of the documents prepared under this Agreement. The reuse of these documents by the City or by others authorized by the City, whether in this project or any other project, entitles the Contractor to no additional compensation. The City reserves the right to require the Contractor to submit copies to the City of any Service information and documentation during and after the completion of the Service with the Contractors compensation being limited to the direct printing and copying expense and/or direct expenses to copy and supply computer information in a digital format. The Contractors indemnity, release and warranty are limited to the use contemplated in this Agreement and Contractor shall not be liable to the City or any third party for any claim arising out of the use of the Contractors documents apart from this Agreement.

**Notices.** Any notice or other communication herein shall be in writing and shall be sent via a method permitting confirmed receipt (such as registered U.S. mail or an overnight courier service such as FedEx). All notices shall be confirmed by facsimile transmission. All notices shall be deemed given when deposited, postage prepaid, in the United States mail, or to the overnight courier service, addressed as set forth below, or to such other address as any one party shall advise the other in writing:

If to the City:

Name:

Position:

Address:

If to the Contractor:

Name:

Position:

Address:

**Severability.** If any provision of this Agreement is held to be void, invalid, illegal or unenforceable under any law or regulation, such void, invalid, illegal, or unenforceable provision shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City



and the Contractor and this Agreement shall be considered as if such void, invalid, illegal, or unenforceable provision had never been including herein.

**Entire Agreement.** This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and agreement, whether written or oral, between the parties regarding same. Headings within the Agreement are for convenience only and do not define, limit or construe the contents of such sections.

**Amendment or Modification.** This Agreement cannot be amended or modified except by another written document duly signed and executed by the City and the Contractor.

**Waiver.** Failure or delay on the part of the City to exercise any right, remedy, power, or privilege hereunder shall not operate as a waiver of any current or future default. Further, a waiver of one provision of this Agreement is not a waiver of all or future provisions of this Agreement.

**Safety Rules.** Contractor hereby acknowledges that it has reviewed and agrees to abide by the City's "Safety and Environmental Requirements for Contractors" located on the City's website whose specific address is: [http://www.cityofws.org/portals/0/pdf/finance/risk-management/SafetyEnvironmentalGuidelines\\_July2011.pdf](http://www.cityofws.org/portals/0/pdf/finance/risk-management/SafetyEnvironmentalGuidelines_July2011.pdf).

**Ethics Policy.** The Contractor hereby acknowledges that he has reviewed and agrees to abide by the City's Ethics Policy located on the City's website – [www.cityofws.org](http://www.cityofws.org) – and whose specific address is <http://wshome.cityofws.org/Portals/1/pdf/HR/Ethics%20Policy%20Revised%20May%2019%202014-Whistleblower%20revision.pdf>.

**ADA, OSHA and Equal Opportunity.** The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (ADA), the State of North Carolina Occupational/Safety and Health Act (OSHA) and the State and Federal Equal Opportunity Statutes, as well as all rules and regulations promulgated thereunder.

**Suspension and Debarment.** Contractor hereby certifies that neither it, nor its agents or subcontractors: (1) are presently debarred, suspended, proposed for suspension or debarment from contracting by any Federal or State department or agency, or (2) have been declared ineligible or voluntarily excluded from contracting by or with any Federal or State department or agency. Any contract entered into with a Contractor or subcontractor that has been debarred or suspended, declared ineligible or voluntarily excluded from contracting with or by any Federal or State department or agency may be terminated at the sole discretion of the City.

**E-Verify.** Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a subcontractor, the Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

**Iran Divestment Act.** Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS §147-86.58, nor will Contractor utilize on this Agreement any subcontractor on such list.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives and signed under seal on the day and the year first above written.

**CITY OF WINSTON-SALEM**

**ATTEST:**

\_\_\_\_\_(SEAL)  
City Secretary

BY \_\_\_\_\_(SEAL)  
City Manager

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

Approved as to form and legality.

This the \_\_\_ day of \_\_\_\_\_, 20\_\_.

This the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
City Attorney

**COMPANY**

**ATTEST:**

\_\_\_\_\_(SEAL)  
Signature

BY : \_\_\_\_\_(SEAL)  
Signature

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Print Name/Title