

BROADBAND EXPANSION AND ACCESS REQUEST FOR PROPOSALS

<p>STATE OF NORTH CAROLINA</p> <p>Department of Information Technology</p> <p>Division of Broadband and Digital Equity</p>	<p>REQUEST FOR PROPOSAL NO. 41-500280</p>
	<p>Electronic Submission Due Date: July 31, 2023</p>
<p>Refer ALL inquiries regarding this RFP to:</p> <p>Audrey Alford</p> <p>Audrey.Alford@nc.gov</p> <p>(919) 754-6230</p>	<p>Issue Date: June 22, 2023</p>
	<p>Commodity Number: 801420</p>
	<p>Description: Broadband Expansion and Access</p>
	<p>Purchasing Agency: Department of Information Technology - NCDIT</p>
	<p>Requisition No.: WS687900762</p>

OFFER

The Purchasing Agency (The North Carolina Department of Information Technology, or "NCDIT") solicits offers for services and/or goods described in this solicitation. All offers and responses received shall be treated as offers to contract as defined in 9 NCAC 06A.0102(12).

Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers are not acceptable.

OFFEROR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY, STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO
PRINT NAME & TITLE OF PERSON SIGNING:	FAX NUMBER:	
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for one hundred and eighty (180) days from date of offer opening.

ACCEPTANCE OF OFFER

If any or all parts of this offer are accepted, an authorized representative of NCDIT Purchasing shall affix its signature hereto and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence as follows: Best and Final Offers, if any, Special terms and conditions specific to this RFP, Specifications of the RFP, the Department of Information Technology Terms and Conditions, Federal Terms and Conditions, and the agreed portion of the awarded Vendor's Offer. A copy of this acceptance will be forwarded to the awarded Vendor(s).

<p><u>FOR NCDIT AGENCY USE ONLY</u></p> <p>Offer accepted and contract awarded this date _____ as indicated on attached certification,</p> <p>by _____</p> <p><i>(Authorized representative of NCDIT Purchasing).</i></p>
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1.0 PROCUREMENT SCHEDULE

Action	Responsibility	Date
RFP Issued	Agency	June 22, 2023
Written Questions Deadline	Interested Vendors	July 6, 2023
Agency's Response to Written Questions/ RFP Addendum Issued	Agency	July 14, 2023
Offer Submission Deadline	Interested Vendor(s)	July 31, 2023
Offer Evaluation	Agency	July 31-August 31, 2023*
Selection of Finalists	Agency	September 1, 2023*
Contract Award	Agency	September 15, 2023*
Protest Deadline	Responding Vendors	15 days after award

*Dates are estimates and may be subject to change.

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2.0 PURPOSE OF RFP

2.1 INTRODUCTION

The State of North Carolina's plan to close the digital divide invests more than \$1 billion in federal American Rescue Plan Act (ARPA) funds to achieve digital equity in North Carolina by addressing infrastructure, access, and digital literacy. This funding will also leverage significant private sector investment. North Carolina Session Law 2021-180 provides \$940 million in ARPA funding to deploy crucial last-mile broadband infrastructure to serve remaining unserved and underserved areas in North Carolina through the Growing Rural Economies with Access to Technology (GREAT) grant program, the Completing Access to Broadband (CAB) program, the Broadband Stop-Gap Solutions program and the Broadband Pole Replacement program. An additional \$50 million is committed for a digital literacy awareness campaign and digital literacy offerings around the state.

The outcome of this Broadband Expansion and Access Request for Proposals (RFP) is the creation of a Convenience Contract to identify broadband service providers (referred to herein as "Vendors" or "Respondents") that have the financial, operational and technical capacity to deploy broadband infrastructure for the provision of internet service in unserved and underserved areas of the state. This RFP does not result in a direct project award but acts as a review of qualifications of broadband providers.

Respondents will be evaluated on a pass/fail basis to determine eligibility to participate in subsequent scopes of work for broadband deployment services needed by the State (referenced herein as "Scope of Work" or "Scopes of Work," also known as task orders, purchase orders, or statements of work). Use of this Convenience Contract allows broadband providers to be vetted at one time for these upcoming projects, thereby avoiding the duplication of efforts under multiple programs and projects. Information collected under this RFP may also be used for risk assessment purposes.

Broadband providers successfully approved under this Convenience Contract will be eligible to provide responses to Scopes of Work for specific broadband programs, including the Completing Access to Broadband Program <https://www.ncbroadband.gov/grants/cab-grant>, the Broadband Pole Replacement Program <https://www.ncbroadband.gov/grants/make-ready-grant>, and portions of the Stop-Gap Solutions Program <https://www.ncbroadband.gov/grants/stop-gap-grant>. Depending on the program, Scopes of Work for individual projects may require competition. Information collected under this RFP may also be used as part of the evaluation process during the subsequent Scope of Work phase of solicitation.

2.2 CONTRACT TERM

A contract awarded pursuant to this RFP shall have an effective date as provided in the Notice of Award. The term shall be two (2) year(s) and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to renew the Agreement for an additional

ONE (1) year period at its sole discretion. NCDIT may offer additional opportunities during this term for Vendors to become eligible under this Convenience Contract.

2.2.1 EFFECTIVE DATE

This solicitation, including any Exhibits, or any resulting contract or amendment shall not become effective nor bind the State until the appropriate State purchasing authority/official, or Agency official has signed the document(s), contract or amendment, the effective award date has been completed on the document(s), by the State purchasing official, and that date has arrived or passed.

2.3 CONTRACT TYPE

2.3.1 STATE CONVENIENCE CONTRACT

The State will award a statewide IT Convenience Contract (09 NCAC 06B .0701(c)) to those Respondents that are qualified through this NCDIT Request for Proposals process. Vendors qualifying under this Convenience Contract will then be eligible to participate in future designated broadband infrastructure service projects. Qualification under this Convenience Contract does not guarantee that a Vendor will be awarded a project under a subsequent Scope of Work. Broadband projects subsequently procured under this Convenience Contract outside of broadband infrastructure programs defined in this Request for Proposals will require competition processes and evaluation criteria approved by the Division of Broadband and Digital Equity.

2.4 AGENCY BACKGROUND

NCDIT's mission is to promote a stronger North Carolina that connects customers, citizens, business, education, and government. NCDIT provides technology services to state agencies and is charged with closing the digital divide by expanding availability of broadband services and promoting the adoption of affordable, high-speed internet.

The NCDIT Division of Broadband and Digital Equity ("Division") is responsible for expanding access to broadband infrastructure, supporting affordability, advancing digital literacy, and building digital equity in North Carolina.

The Division houses two offices; the Broadband Infrastructure Office ("BIO" or the "Office") and the Office of Digital Equity and Literacy ("ODEL"), charged with ensuring every North Carolinian has access to an affordable high-speed internet connection and the devices and digital skills needed to participate in the modern economy.

2.5 PROBLEM STATEMENT

Too many North Carolinians lack access to an internet connection, cannot afford an internet subscription, or do not have an adequate device to access the internet. Many also lack the skills to take advantage of digital services like telehealth, online education, or online job boards.

Infrastructure is a major challenge, affecting both rural and urban areas in North Carolina. North Carolina seeks to use state and federal funding to rapidly build crucial infrastructure in unserved and underserved areas to ensure broadband service for our households, businesses, and Community Anchor Institutions. This RFP represents a piece of North Carolina's plan to close the digital divide and achieve digital equity for all North Carolinians by investing in high-speed internet infrastructure and increasing access, affordability, and digital literacy.

3.0 RFP REQUIREMENTS AND SPECIFICATIONS

3.1 GENERAL REQUIREMENTS AND SPECIFICATIONS

3.1.1 REQUIREMENTS

To be eligible for a contract award the Vendors must provide required information and demonstrate sufficient capacity as outlined in the eligibility review and assessment and as detailed in this Request for Proposals.

3.1.2 SPECIFICATIONS

Vendors must provide responses to the Financial, Operational, and Technical sections of the RFP in accordance with procedures outlined herein. The information will be reviewed and must substantially conform with the requirements of the State.

3.2 BUSINESS AND TECHNICAL REQUIREMENTS

This RFP focuses on three sections or "components" as summarized below and detailed in the Evaluation/Assessment section. Each component – Financial – Operational – Technical – is further comprised of questions or requests for certain information. Each of these questions is termed an "element." Vendors will submit required information for each element to document that they meet the requirements and demonstrate the ability to successfully deploy and sustain any future broadband infrastructure projects awarded under this Convenience Contract.

The three components are:

3.2.1 Financial Assessment Documentation

- A. Financial Statements – 3 years
- B. Bank Statements – 3 years
- C. Bankruptcy Information
- D. Bank and Investment Reference(s)
- E. Current Grants
- F. Indebtedness
- G. Failure to Perform

3.2.2 Operational Assessment Documentation

- A. Local Contact Information
- B. Baseline Company Profile

- C. Billing and Operational Support Systems. B/OSS
- D. Security and Performance
- E. Filing Status
- F. End User Support
- G. Capacity

3.2.3 Technical Assessment Documentation

- A. High Level Network Summary
- B. Network Design
- C. Network Development
- D. Network Construction
- E. Operationalization
- F. Network Management & Security
- G. Project Planning

4.0 COST OF VENDOR'S OFFER

4.1 OFFER COSTS

Vendors are not required to submit a Cost Proposal when responding to this RFP. There is no cost component to this RFP. Costs and pricing will be required at the project level in Vendor responses to Scopes of Work.

5.0 EVALUATION / ASSESSMENT

5.1 SELECTION

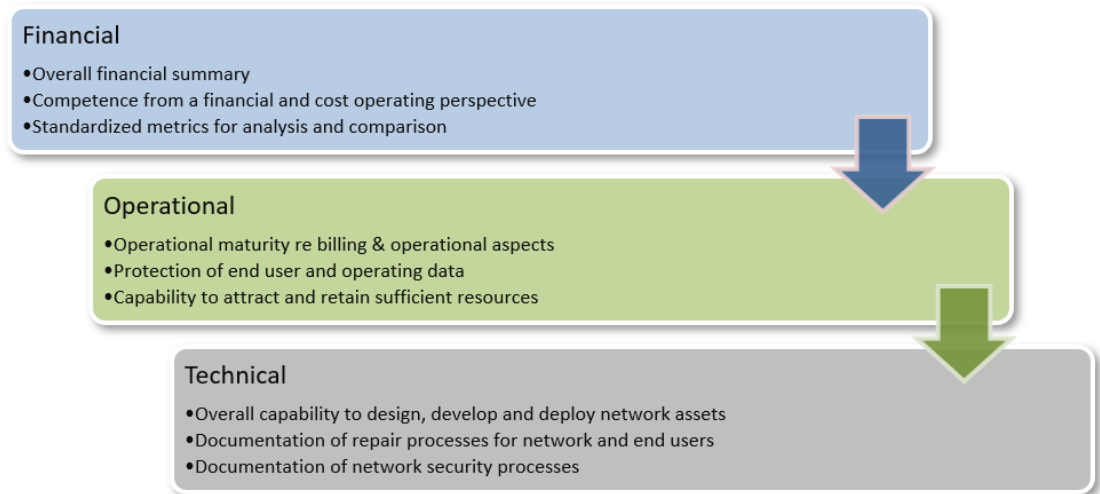
Through this RFP, the State is seeking to ensure that broadband providers receiving public funds for investment in broadband infrastructure deployments have the capability and capacity to successfully design, deploy, implement, manage, and sustain these projects or networks.

Competency in these areas has been identified by the State as necessary for Respondents to succeed in meeting the goals and requirements of the State. These goals are focused on providing services from the specified program(s) to support broadband expansion into underserved and unserved areas of North Carolina.

This RFP consists of three components summarized in Section 5.2 and detailed further in this RFP: (1) Financial, (2) Operational, and (3) Technical. Each component contains specific questions related to the Respondent. While some questions are general in nature, certain questions focus on Respondent operations specifically in, or related to, North Carolina.

The following graphic shows, at a high level, the three major components contained within this RFP.

Summary – Three Phases



5.2 RFP ASSESSMENT PROCESS

The three components are summarized below and detailed in Section 5.3. All are equally necessary requirements of this RFP.

Financial. The financial capacity of a Respondent to deploy, operate and maintain a broadband network is assessed in this section. A Respondent which is not financially viable cannot successfully execute either the operational or technical components associated with a broadband project. Lack of capital could create a barrier for a major broadband deployment, particularly where matching funds are required.

Note that in this section, documentation requirements for submission by publicly-held companies may differ from those required for submission by non-publicly-held companies. Subsidiaries that are wholly owned by publicly-held parent companies may be considered publicly-held for the purposes of submitting the required documentation.

Operational. The capability of a Respondent to operate a business providing Internet access to end user subscribers over an extended period is assessed in this section. Areas for review include provisioning, end user support, billing, collections, and data protection.

Technical. A respondent must be competent in the design, development, deployment, maintenance, management and repair of network projects or subsets of such projects, constructed and funded in-part with public funding.

Additional Information. Following the deadline for RFP submissions, the State reserves the right to contact Respondents to request additional or missing information, or to seek clarification of information provided. The goal of the State is to have as many

Respondents as possible qualified and awarded a Convenience Contract, making them eligible to participate in projects under the programs noted in this RFP.

5.3 FINANCIAL DOCUMENTATION RESPONSE REQUIREMENTS

5.3.1 Financial Statements – 3 Years

If Respondent is not a publicly traded company, upload financial statements for the three most recent fiscal years including Balance Sheet, Income Statement and Statement of Changes in Financial Position or Statement of Cash Flows. If Respondent's financial history is less than three years, include quarterly or half year statements for partial years including the current RFP response year.

Statements may be audited, reviewed, or compiled by a CPA, or may be produced directly from accounting software (e.g., QuickBooks, Sage, FreshBooks, or other similar programs). Statements should be in PDF format.

If Respondent is publicly-held, provide direct links to 10-K statements for the three most recent fiscal years.

The RFP process requires financial statements. As such, tax returns such as Form 1040 Schedule C, Form 1120 (all variants), Form 1165, or a partnership statement (Form K-1) will not be accepted in lieu of Financial Statements.

5.3.2 Bank Statements – 3 years

Respondent will provide two consecutive monthly bank statements per year over the most recent three-year periods per bank account (e.g., February & March statements for each of the most recent three years; for a total of 6 statements). The yearly statements must be for consecutive months. Include statements from all operating accounts. It is preferred that statements indicate transactions such as payroll, payroll tax deposits, and inbound invoice collections, etc. Submission of bank statements is not a requirement for a publicly-held company operating in good standing – i.e., has not filed for Chapter 11 reorganization.

5.3.3 Bankruptcy

Respondent will provide summary information on any current and prior bankruptcy filings from January 1, 2016, to present day and current bankruptcy status, if any. Include information about dates, type, court and jurisdiction, and operating restrictions (if any) imposed by the court post-bankruptcy and whether such restrictions have been lifted. If Respondent is a sole proprietorship, include personal bankruptcy filings. Submission of bankruptcy information is not a requirement for publicly-held companies.

5.3.4 Bank and Investment Reference(s)

Banking Institutions. Respondent, who is not publicly-held, will provide contact information for its primary representative (contact) for each banking institution to serve as a reference including (a) name of financial institution, (b) contact name,

(c) contact title, (d) email address, (e) city and state of location, and (f) telephone number.

In advance of outreach by the Office to these contacts, Respondent should contact their financial institution and authorize disclosure of information to representatives of the Office. The information requested will be limited to confirmation of bank contact(s), and further, the account information provided is accurate and represents a current relationship.

Non-Bank Financial Institutions. If Respondent is not a publicly traded company, and will be utilizing alternative sources of capital including, but not limited to, equity, private placement, or debt financing, Respondent will provide contact information for its primary representative (contact) for each investment firm to serve as a reference including (a) name of financial institution, (b) contact name, (c) contact title, (d) email address, (e) city and state of location, and (f) telephone number and (g) URL.

5.3.5 Current Broadband Deployment Grants

Respondent, who is not publicly-held, will provide a summary of existing broadband deployment projects in North Carolina or geographically adjacent states, which are funded by grants. This listing of current grant-funded projects should include the award date, award amount, matching fund requirement amount, expected end date of the project, granting agency and location of the project. The summary should also include the outstanding financial/matching fund obligations due from the Respondent for project completion. Funding awards from the Broadband Infrastructure Office do not need to be included in this response.

5.3.6 Indebtedness

Respondent, who is not publicly-held, will provide a summary schedule of existing indebtedness, excluding non-material debt such as credit card balances, or small secured debt such as vehicle loans or mortgages. The schedule should reflect the current portion of long-term debt, as well as remaining obligations classified as long-term debt. If Respondent utilizes factoring, a summary of the factoring arrangements including commitments and requirements is required, as is baseline contact information related to the primary contact at the factoring company.

5.3.7 Failure to Perform

Respondent will provide a list of grant projects where the Respondent defaulted on the completion of a broadband deployment grant funded with local, state or federal funds, from January 1, 2018, to the present. The word default, as used in this context, is defined as the omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement; and is specific to instances where the Respondent may be deemed to be at fault for the failure to perform the grant project(s).

For each instance, provide a synopsis of why the project was not completed and the current status of the project(s).

5.4 OPERATIONAL DOCUMENTATION RESPONSE REQUIREMENTS

5.4.1 Contact Information for Authorized Representatives

Respondents will provide the name and contact information for up to two Respondent contacts responsible for full cost management for broadband projects in North Carolina, where “full cost” means the individual who carries full responsibility for review, authorization and approval for North Carolina project activity and expenditures. Include name, title, email address, phone number, and physical address.

5.4.2 Baseline Company Profile

Respondent will provide a corporate organizational chart identifying the parent company and any subsidiaries or affiliates that will be performing work in North Carolina and identifying the company serving as the Respondent to this RFP. The Respondent should be the part of the company able to contract, receive, and implement grant awards in North Carolina. Within the organizational chart, describe the Respondent’s business type in relation to tax filings (for-profit, not-for-profit, etc.) and whether the company is publicly traded.

Respondent will indicate appropriate identification numbers by providing the specific ID number for the relevant corporate entity in the ID Number field in a table provided on the RFP Response Form. Enter any applicable comments in the Remarks column. If an ID number does not apply, the space should be left blank.

1. US FEIN (Federal Employer Identification Number)
2. NC SOS (Registration number for NC Secretary of State)
3. US CAGE (Commercial and Government Entity)
4. FCC FRN (FCC Registration Number)
5. FCC ETC (FCC Eligible Telecommunications Carrier)
6. Unique Entity Identifier (Generated by Sam.gov)
7. Equifax (Equifax Vendor ID Number)

5.4.3 Billing and Operational Support Systems (B/OSS)

Respondents will briefly describe the billing system utilized for end user account management. If the billing system is provided by a third party, include the name and URL of the provider. Further, Respondent will indicate if billing system data is stored onsite or offsite and provide a brief summary of backup protocols for this data.

5.4.4 Billing and Customer Data

Billing Processes. The Respondent will briefly describe billing cycles and summarize end user access to billing information. Included in the response should be a summary of payment methods available to subscribers.

Customer Data. The Respondent will summarize internal policy and security standards for protecting customer proprietary network information (CPNI) and equivalent end user information including personal and billing information. The frequency of security standards testing, and reviews should be included.

In the response, do NOT provide information which has the potential to compromise ongoing or planned systems operations, network management or security.

5.4.5 Federal Filing Status

The Respondent will briefly describe current federal communications filings including, but not limited to, Form(s) 477, 498, 499, and Broadband Data Collection (BDC) data submitted since July 1, 2021, including filing dates, agency, form type, and status (if any). This element is a summary description only. There is no requirement for the Respondent to provide copies of reports or supporting schedules.

Respondent must also indicate whether it currently participates in the Federal Communication Commission's Affordable Connectivity Program.

5.4.6 End User Support

Respondents should briefly describe both the types of support as well as support standards. Summarize end user support protocols including the capacity for 24 x 7 inbound support. Briefly describe resolution procedures relative to real time resolution, dispatch, or escalation.

5.4.7 Human Resource Capacity

Summarize Respondent's capacity, from a human resource perspective, especially in relation to the federal funding now available nationwide for broadband investments. Describe broad strategies for absorbing the additional deployment work in this climate. Briefly describe how new employees and/or contract personnel are trained and integrated to support grant projects in North Carolina.

5.5 TECHNICAL DOCUMENTATION RESPONSE REQUIREMENTS

Technical competence is evaluated through a review of responses submitted in this third component. Responses should summarize Respondent activities related to network design and development, deployment, and ongoing operation including maintenance.

This section of the RFP is more generalized as responses to future individual Scopes of Work will have specific information relative to a particular proposed network solution. The responses to this RFP provide insight on the general technical capability of a Vendor. The technical documentation provided under this RFP response may also be referred to for review, if and when a Respondent submits a proposal in response to a specific Scope of Work under this convenience contract.

5.5.1 High Level Network Summary

Respondent will provide a general overview of its architecture for its current broadband networks in North Carolina. The response is an overview to assist in better

understanding how the Respondent views its networks at a high-level and is not considered binding for any specific infrastructure projects.

The response will provide a succinct overview of central office (CO), headend or colocation facilities to last mile connectivity, and further describe whether Internet access is via peering, direct connection, or a combination of both. In the summary, provide failover and general network security processes. Do NOT provide details of security architecture, processes or credentials.

Describe the general backbone strategies from the CO or headend, and decision criteria for splicing to middle mile / distribution fiber or coaxial cabling. Summarize powered and unpowered components generally used in the networks. Summarize overall design direction for future network construction or additions, if different from the strategy for the current networks.

If the Respondent does not currently own or operate networks in North Carolina, the response should be a concise summary of overall network architecture principles utilized by Respondent.

5.5.2 Network Design for Grant Projects

Respondent should briefly provide a summary of considerations for network design for grant-based projects in North Carolina that are seeking to serve unserved and underserved locations. Information should include but not be limited to analysis of eligible project areas, budget development and review, network design considerations to achieve last mile connectivity, and details on how internal / external resources may be engaged in the process.

5.5.3 Network Development

In the follow-on to Network Design, Respondent should briefly outline how the Respondent advances a proposed project from the conceptual to an actual work in process as a project. Briefly describe this as a transition to a managed project including high level definitions of key milestones. Summarize planning for permits, easements, and preparation for make-ready work. If the network development of a grant project is different than a privately-funded build, note any key differences.

5.5.4 Network Construction

Respondent will provide summary information on how network construction for new projects is generally managed and implemented. Response should outline key construction phases and whether internal or external resources are used during construction. Respondent should include names of typical contactors used by Respondent in North Carolina projects. If network construction processes differ for grant-funded projects, Respondent should describe how grant-funded deployment projects differ in approach in terms of Network Construction.

5.5.5 Network Turnup / Operationalization

Respondent will summarize the high-level processes and typical transition from network construction to operationalization including quality control (QC) processes for new construction combined with the resolution of construction and turnup issues. Describe intermediate test processes during construction. Identify the safeguards in place to ensure adequate reliability and stability are present prior to general availability of the network. Also explain who in the company is responsible for network turnup and signoff for completion.

5.5.6 Reliability and Repair

The questions in this element are directed towards understanding overall network reliability goals. Respondent will describe its broad standards for ongoing infrastructure review and maintenance including generalized information on resource and funding allocation and schedules, identification of key vendors, and escalation processes.

5.5.6.1 Reliability

Respondent will describe the overall objectives for network reliability (excluding upstream providers). Briefly describe network monitoring algorithms and systems in use. Describe what generally constitutes a “Network Emergency.”

5.5.6.2 Repair

Respondent will summarize how repair requirements are communicated and managed. Describe whether mean time to detect (MTTD) and mean time to restore (MTTR) statistics are calculated for the Respondent for fiber networks in NC and whether such statistics are of value in supporting network restoration. If not, describe how response times are tracked and measured to ensure timely repair (non-extraordinary).

5.5.6.3 Resource Management

Respondent will summarize resource management protocols utilized to support network maintenance and repairs including crew, equipment, and supplies.

5.5.6.4 Dispatch Process

Respondent will briefly describe the standard dispatch process related to the identification and management of network outages or repairs. Generally, describe the broad process relating to an outage for an individual subscriber. Describe how scheduled maintenance windows tie to these processes.

5.5.6.5 Inventory

Briefly describe Respondent’s general inventory management policies, processes and capabilities for infrastructure components such as cables, connectors, conduit; for network electronics (such as cards, hubs, antennas, radios, routers, switches etc.); and for end user components (such as network interface devices (NID), optical network terminals (ONT), etc.). If inventory management processes for a grant project are different than a privately-funded build, note any key differences.

5.5.7 Network Management & Security

Network security represents the protection of data which travels the network, or is accessible from the network, but also the maintenance of network availability use by end user subscribers. It is generally accepted that end users carry primary responsibility for data and application security. The responses to this component summarize at a high-level the approach of the Respondent to network level security.

Note: Do not disclose confidential or specific network security architecture, device information or credentials in these responses.

5.5.7.1 Security Management Information

If Respondent utilizes a third party for managed services, please list the name of the managed network security (MNS) company in the box provided on the RFP Response Form. If Respondent utilizes both an in-house security manager and a third-party company for security management, please check both boxes where indicated on the RFP Response Form.

5.5.7.2 Network Security Policy

Respondent must summarize its policy for network security including physical security, network access, and other incursions such as cyber attacks. Briefly describe differences between protocols for company owned networks vs. partner owned networks. (Indicate in the response if Respondent does not utilize a partner-owned network).

5.6 QUALIFICATION DETERMINATION

A designated assessment committee will review the information provided by each Respondent and consider each Respondent for qualification. The committee will make a determination as to the capability and capacity of the Respondent based on the information provided. Each of the categories, Financial – Operational – Technical, is equally necessary.

- a. **Assessment Process Explanation.** The State will review all submissions. All proposals will be initially classified as being responsive (complete) or non-responsive (incomplete). If a submission is found non-responsive or incomplete, the submission may not be considered for further consideration. The State may at its sole discretion request additional information from Vendors, although Vendors are required to supply the requested information with their offer. The State will review all responsive offers in accordance with the Evaluation / Assessment process described in this RFP.
- b. **Conformity with Requirements.** To be eligible for consideration, the Vendor's offer must substantially meet all requirements and specifications. Compliance with requirements will be determined by the State. Offers that do not meet the full intent of all requirements listed in this RFP may be deemed deficient. Further, a serious deficiency in the offer to any single (1) element may be grounds for rejection.

- c. **Request for Additional Information.** The assessment committee may request additional information after the deadline for offer submissions. The committee may seek clarifications regarding the information provided or request additional information. However, the State may refuse to accept, in full or in part, a Vendor's response to a clarification request. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. Vendors should be prepared to send qualified personnel to Raleigh, North Carolina, or to participate in a virtual meeting as required, to discuss technical and contractual aspects of the offer.
- d. **Importance of Completeness.** The goal of the State is to approve as many qualified and capable Vendors as possible. However, Vendors are advised the State is not obligated to ask for or accept, after the closing date for receipt of the offer, data that may be essential or of value for a complete and thorough evaluation of the offer.

5.7 EVALUATION / ASSESSMENT

Evaluation/assessment of the submitted offers will be performed to qualify Vendors. Evaluation is based on submission of required information documenting financial stability, operational capacity, and technical capacity to design, deploy, operate, and sustain a broadband network for end users. Assessment is made on a pass/fail basis.

Respondents that provide the necessary documentation and explanation to demonstrate needed capacity are eligible to participate in the Convenience Contract. Inability to provide the necessary documentation and explanation results in a failure to qualify for the Convenience Contract.

For Vendors that fail to qualify, the State may decide to offer additional rounds of vetting for participation under the Convenience Contract at a future date. The content of the submitted offers includes the submission of the required documentation, the completed RFP Response Form, and additional document submissions as required. As noted above, the State may seek clarifications from Vendors as necessary.

5.8 PRE-QUALIFIED DESIGNATION

Following the evaluation/assessment of proposals, Vendors who qualify will be awarded a Convenience Contract. Vendors who have been awarded a Convenience Contract will be eligible to participate in subsequent projects and programs in the State of North Carolina as defined by the State.

5.9 BEST AND FINAL OFFERS (BAFO) – RESERVED

5.10 POSSESSION AND REVIEW

During the evaluation/assessment period and prior to award, possession of the responses and accompanying information is limited to the issuing agency and its personnel or agents, and to the committee responsible for participating in the evaluation. Vendors who attempt to gain this privileged information, or to influence the evaluation

process (i.e., assist in evaluation) will be in violation of purchasing rules and their offer will not be further evaluated or considered.

After award of contract, the complete solicitation file will be available to any interested persons with the exception of trade secrets, test information or similar proprietary information as provided by statute and rule. Any proprietary or confidential information which conforms to exclusions from public records as provided by N.C.G.S. §132-1.2 must be clearly marked as such in the offer when SUBMITTED. See Section 8.9 and Terms and Conditions No. 18.

6.0 VENDOR INFORMATION AND INSTRUCTIONS

6.1 GENERAL CONDITIONS OF OFFER

6.1.1 Vendor Responsibility

It will be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all specifications, requirements and the State's intent as specified herein. If a Vendor discovers an inconsistency, error or omission in this solicitation, the Vendor should request a clarification from the State's contact person.

6.1.2 Rights Reserved

While the State has every intention to pre-qualify a Vendor as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of North Carolina, or the procuring Agency, to award a contract. Upon determining that any of the following would be in its best interests, the State may:

- waive any formality.
- amend the solicitation (see Section 6.1.3 below).
- cancel or terminate this RFP.
- reject any or all offers received in response to this RFP.
- waive any undesirable, inconsequential, or inconsistent provisions of this RFP.
- if the response to this solicitation demonstrates a lack of competition, negotiate directly with one or more Vendors.
- not award, or if awarded, terminate any contract if the State determines adequate State funds are not available; or
- if all offers are found non-responsive, determine whether Waiver of Competition criteria may be satisfied, and if so, negotiate with one or more known sources of supply.

6.1.3 Solicitation Amendments or Revisions

Any and all amendments or revisions to this document prior to offer shall be made by written addendum from the Agency Procurement Office in accordance with 09 NCAC 06B .0314.

6.1.4 Oral Explanations

The State will not be bound by oral explanations or instructions given at any time during the bidding process or after the award. Contact by a Vendor regarding this RFP with anyone other than the State's contact person may be grounds for rejection of said Vendor's offer. Agency contact regarding this RFP with any Vendor may be grounds for cancellation of this RFP.

6.1.5 E-Procurement

This is not an E-Procurement solicitation.

6.1.6 Interactive Purchasing System (IPS)

The State has implemented links to the Interactive Purchasing System (IPS) that allow the public to retrieve offer award information electronically from our Internet website: <https://www.ips.state.nc.us/ips/>. Click on the IPS BIDS icon, click on Search for BID, enter the Agency prefix-offer number (XXXX), and then search. This information may not be available for several weeks depending upon the complexity of the acquisition and the length of time to complete the evaluation process.

6.1.7 Protest Procedures

Protests of awards under this Convenience Contract exceeding \$25,000 in value must be submitted to NCDIT at the address given on the first page of this document. Protests must be received in NCDIT's office within fifteen (15) calendar days from the date of this RFP award and provide specific reasons and any supporting documentation for the protest. All protests are governed by Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121. This protest process applies to this Convenience Contract and does not apply to Scopes of Work submitted as part of specific programs.

6.2 GENERAL INSTRUCTIONS FOR VENDOR

6.2.1 Site Visit or Pre-Offer Conference

A pre-offer conference will NOT be held for this solicitation.

6.2.2 Questions Concerning the RFP

All inquiries regarding the solicitation specifications or requirements are to be addressed to the contact person listed on Page One of this solicitation via the Ariba Sourcing Tool's message board. Contact by a Vendor regarding this Solicitation with anyone other than the contact person listed on Page One of this Solicitation may be grounds for rejection of said Vendor's offer.

Written questions concerning this Solicitation will be received until the date and time stated in the Procurement Schedule table.

Such questions must be submitted to the contact person listed on Page One of this RFP via email. Please enter "Questions to Broadband Expansion and Access RFP Solicitation 41-500280" as the subject for the message.

6.2.3 Addendum to RFP

If written questions are received prior to the submission date, an Addendum comprising questions submitted and responses to such questions, or any additional terms deemed necessary by the State shall become an Addendum to this RFP and provided via the State's Ariba Sourcing Tool.

Critical updated information may be included in this Addendum. It is important that all Vendors bidding on this RFP periodically check the State's Ariba Sourcing Tool for any and all Addenda that may be issued prior to the offer opening date.

6.2.4 Costs Related to Offer Submission

Costs for developing and delivering responses to this RFP and any subsequent presentations of the offer as requested by the State are entirely the responsibility of the Vendor. The State is not liable for any expense incurred by the Vendors in the preparation and presentation of their offers.

All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and the Vendor resulting from this RFP process.

6.2.5 Vendor Errata and Exceptions

Any errata or exceptions to the State's requirements and specifications may be presented on a separate page labeled "Exceptions to Requirements and Specifications". Include references to the corresponding requirements and specifications of the Solicitation. Any deviations shall be explained in detail. **The Vendor shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable. Offers of alternative or non-equivalent goods or services may be rejected if not found substantially conforming; and if offered, must be supported by independent documentary verification that the offer substantially conforms to the specified goods or services specification.** If a vendor materially deviates from RFP requirements or specifications, its offer may be determined to be non-responsive by the State.

Offers conditioned upon acceptance of Vendor Errata or Exceptions may be determined to be non-responsive by the State.

6.2.6 Modifications to Offer

An offer may not be unilaterally modified by the Vendor.

6.2.7 Basis for Rejection

Pursuant to 9 NCAC 06B.0401, the State reserves the right to reject any and all offers, in whole or in part, for the following reasons: if the offer is unsatisfactory as to quality, delivery, or service offered; non-compliance with the specifications or intent of this solicitation; lack of competitiveness; error(s) in specifications or indications that revision would be advantageous to the State; cancellation or other changes in the intended project, or other determination that the proposed specification is no longer needed; limitation or lack of available funds; insufficient demonstration of financial, technical, or operational capacity; the offer is unsigned; or any other determination that rejection would be in the best interest of the State.

6.2.8 Non-Responsive Offers

Vendor offers may be deemed non-responsive by the State and may be rejected without further consideration or evaluation if statements such as the following are included:

- “This offer does not constitute a binding offer”,
- “This offer will be valid only if this offer is selected as a finalist or in the competitive range”,
- “The Vendor does not commit or bind itself to any terms and conditions by this submission”,
- “This document and all associated documents are non-binding and shall be used for discussion purposes only”,
- “This offer will not be binding on either party until incorporated in a definitive agreement signed by authorized representatives of both parties”, or
- Statement(s) of similar intent

6.2.9 Vendor Registration with the Secretary of State

Vendors do not have to be registered with the North Carolina Secretary of State to submit an offer; however, in order to receive an award/contract with the State, they must be registered. Registration can be completed at the following Internet site:
https://www.sosnc.gov/Guides/launching_a_business

6.2.10 Vendor Registration and the Solicitation Notification System

The NC electronic Vendor Portal (eVP) allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and Services available on the Interactive Purchasing System at the following website:
<https://www.ips.state.nc.us/ips/>.

This RFP is available electronically on the Interactive Purchasing System at
<https://www.ips.state.nc.us/ips/>.

6.2.11 Vendor Points of Contact

Provide information in Attachment C.

6.3 INSTRUCTIONS FOR PROPOSAL SUBMISSION

6.3.1 General Instructions for Offer

Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the offer and subsequent evaluation process:

- a. The initial document submission should contain this RFP along with any completed blanks within this RFP completed and Exhibits contained with the RFP. The Execution (first) page of this RFP must be placed at the front of the Proposal.
- b. Utilize the RFP Response Form for providing all responses to Section 5 of the RFP. This document is an Adobe Acrobat® based document with instructions and blanks for responses. The template includes specific capacity constraints for many answers to allow for a valuable response that focuses on an efficient response without excessive prose. The Respondent should seek to provide complete and comprehensive responses with a corresponding emphasis on being concise and clear. Elaborate offers in the form of brochures or other presentations beyond that necessary to present a complete and effective offer are not desired.
- c. Supply all relevant and material information as requested. Certain information must be uploaded in separate documents. Documents saved in an Adobe Portable Document Format (PDF) are required. Additional uploaded documents should have a single cover page with Respondents name, organization name, date of submission, name of attached document, and Respondent contact name, email, and phone number. If relevant material information is not provided, the offer may be rejected for consideration and evaluation.
- d. Furnish all information requested; and where response spaces are provided in this document or in the Adobe template, the Vendor shall furnish said information in the spaces provided. Proposals that do not comply with these instructions may be rejected.
- e. If the Vendor is submitting an Internet site link in response to a question, Vendor should test the link with multiple client browsers to ensure functionality for the evaluation team.
- f. Any offer that does not adhere to these instructions may be deemed non-responsive and rejected on that basis.
- g. **Only information that is received in response to this RFP will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not suffice as a response to this solicitation.

- h. The State may contact Vendors that have submitted a response to clarify any information provided or to request additional information if needed. The goal of the State is to qualify Vendors through the award of a Convenience Contract.

6.3.2 Offer Organization

Vendors will prepare their response in the order listed here.

Within each section of its offer, Vendor should address the items in the order in which they appear in this RFP. Forms, attachments, or exhibits, if any provided in the RFP, must be completed, and included in the appropriate section of the offer.

The offer should be organized and indexed in the following format and should contain, at a minimum, all listed items below.

- a. Signed Execution Page
- b. Table of Contents
- c. Description of Vendor Submitting Offer Form (Attachment C)
- d. RFP Response Form for Section 5 (Adobe Acrobat® Form): for Financial, Operational and Technical Documentation
- e. Required uploads for Section 5: Financial, Operational and Technical Documentation
- f. Required uploads (see Section 6.3.1.a above for cover page requirements)
- g. Signed Vendor Certification Form (Attachment E)
- h. Location of Workers Utilized by Vendor Form (Attachment F)
- i. County List (Attachment G)
- j. Errata and Exceptions if any
- k. All pages of this solicitation document (including Attachments)

6.3.3 OFFER SUBMITTAL

IMPORTANT NOTE: Vendor shall bear the risk for late submission due to unintended or unanticipated delay—whether submitted electronically, delivered by hand, U.S. Postal Service, courier, or other delivery service. **Vendor must include all the pages of this solicitation in their response.** It is the Vendor's sole responsibility to ensure its offer has been delivered to this Office by the specified time and date of opening. Any proposal delivered after the proposal deadline will be rejected.

Sealed offers, subject to the conditions made a part hereof, will be received until 2:00pm Eastern Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Offers must be submitted via the Ariba Sourcing Module with the Execution page signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed offer shall result in disqualification.

Attempts to submit a proposal via facsimile (FAX) machine, telephone, or email in response to this RFP shall NOT be accepted.

- a. Submit one (1) signed, original electronic offer through the Ariba Sourcing Module.
- b. The Ariba Sourcing Module document number is: DOC 687900788
- c. All File names should start with the Vendor name first, in order to easily determine all the files to be included as part of the vendor's response. For example, files should be named as follows: Vendor Name-your file name.
- d. File contents SHALL NOT be password protected, the file formats must be in .PDF, .JPEG, .DOC or .XLS format, and shall be capable of being copied to other sources. Inability by the State to open the Vendor's files may result in the Vendor's offer(s) being rejected.
- e. If the vendor's proposal contains any confidential information (as described in Attachment A, Paragraph #18), then the vendor must provide one (1) signed, original electronic offer and one (1) redacted electronic copy.
- f. The Acrobat® based RFP Response Form is located at the following URL: <https://www.ncbroadband.gov/documents/rfp-response-form-broadband-expansion-and-access/open>

6.3.3.1 Ariba Sourcing Tool

For training on how to use the Ariba Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following Internet site:

<https://eprocurement.nc.gov/training/vendor-training>

Questions or issues related to using the Ariba Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST.

7.0 PROJECT AVAILABILITY

Vendors passing the qualification process and having been awarded a State Convenience Contract will be eligible to participate in certain programs administered by NCDIT. Projects anticipated to utilize this Convenience Contract to some degree include the following:

7.1 COMPLETING ACCESS TO BROADBAND (CAB) PROGRAM

The CAB Program is focused on the delivery of broadband infrastructure expansion projects in partnership with counties. The Respondent deemed to provide the best solution for a defined and specific county project, upon completion of a competitive process, may be awarded a Scope of Work for the specific project based on a review of submitted proposals.

7.2 BROADBAND POLE REPLACEMENT PROGRAM (BPRP)

The BPRP is a program which reimburses a portion of eligible expenses for utility pole replacement in eligible broadband projects.

7.3 BROADBAND STOP-GAP SOLUTIONS PROGRAM

The Broadband Stop-Gap Solutions Program provides funding for the provision and installation of broadband infrastructure to unserved and underserved locations.

8.0 OTHER REQUIREMENTS AND SPECIAL TERMS

8.1 VENDOR UTILIZATION OF WORKERS OUTSIDE OF U.S.

In accordance with N.C.G.S. §143B-1361(b), the Vendor must detail the manner in which it intends to utilize resources or workers in the RFP response. The State of North Carolina will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award for any such Vendor's offer.

NOTE to Respondent: Complete ATTACHMENT F - Location of Workers Utilized by Vendor and submit with your offer.

8.2 PERFORMANCE SECURITY AND QUALITY ASSURANCE

- a. Contract Performance Security. The State reserves the right to require performance guaranties pursuant to N.C.G.S. §143B-1340(f) and 09 NCAC 06B.1207 from the Vendor without expense to the State.
- b. Project Assurance, Performance and Reliability Evaluation. Pursuant to N.C.G.S. §143B-1340, the State CIO may require quality assurance reviews of Projects as necessary.

8.3 CRIMINAL CONVICTION

In the event the Vendor, an officer of the Vendor, or an owner of a 25% or greater share of the Vendor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of North Carolina employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Vendor's business integrity and such vendor shall be prohibited from entering into a contract for goods or Services with any department, institution or agency of the State.

8.4 SECURITY AND BACKGROUND CHECKS

The Vendors are responsible for performing any required or necessary background checks of their workforce and subcontractors. The State reserves the right to check for non-compliance.

8.5 ASSURANCES

In the event that criminal or civil investigation, litigation, arbitration, or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this agreement, causes the State to be reasonably concerned about:

- a. the ability of the Vendor or its subcontractor to continue to perform the agreement in accordance with the required terms and conditions, or
- b. whether the Vendor or its subcontractor in performing services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of the agreement or violation of law, regulation or public policy,

then the Vendor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: the Vendor or its subcontractors hereunder will be able to continue to perform the agreement in accordance with its terms and conditions, and the Vendor or its subcontractors will not engage in conduct in performing Services under the agreement which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.

8.6 CONFIDENTIALITY OF RESPONSES

All offers and any other RFP responses shall be made public as required by the NC Public Records Act and GS 143B-1350. Vendors may mark portions of offers as confidential or proprietary, after determining that such information is excepted from the N.C. Public Records Act, provided that such marking is clear and unambiguous and preferably at the top and bottom of each page containing confidential information. (See NCDIT Terms and Conditions No. 18) Standard restrictive legends appearing on every page of an offer are not sufficient and shall not be binding upon the State.

Certain State information is not public under the N.C. Public Records Act and other laws. Any such information which the State designates as confidential and makes available to the Vendor in order to respond to the RFP or carry out this agreement, or which becomes available to the Vendor in carrying out the agreement, shall be protected by the Vendor from unauthorized use and disclosure. The Vendor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Vendor without restriction, (3) information independently developed or acquired by the Vendor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Vendor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

8.7 PROJECT MANAGEMENT

All project management and coordination on behalf of the Agency shall be through a single point of contact designated as the Agency Project Manager. The Vendor shall designate a Vendor Project Manager who will provide a single point of contact for

management and coordination of the Vendor's work. All work performed pursuant to the Agreement shall be coordinated between the Agency Project Manager and the Vendor Project Manager.

8.8 MEETINGS

The Vendor is required to meet with Agency personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the Agreement. Meetings will occur as problems arise and will be coordinated by the Agency. The Vendor will be given reasonable and sufficient notice of meeting dates, times, and locations. Face-to-face meetings are desired. However, at the Vendor's option and expense, a conference call meeting may be substituted.

8.9 RECYCLING AND SOURCE REDUCTION

It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of goods purchased. However, no sacrifice in the quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the purchasers at the NCDIT Statewide IT Procurement Office those products or packaging they offer which have recycled content and that are recyclable.

8.10 SPECIAL TERMS AND CONDITIONS – RESERVED

[The remainder of this page intentionally blank.]

ATTACHMENT A: NCDIT TERMS AND CONDITIONS

Section 1. General Terms and Conditions

1. **DEFINITIONS:** As used herein.
 - a. Agreement or Contract means the convenience contract awarded pursuant to this RFP and any Scope of Work entered into pursuant to the convenience contract.
 - b. Deliverable(s) means the products or Services described in any Scope of Work entered into pursuant to this Agreement.
 - c. Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.
 - c. Services shall mean the duties and obligations undertaken by the Vendor under, and to fulfill, the specifications, requirements, terms, and conditions of the Agreement and any Scope of Work entered into pursuant to this Agreement.
 - d. State shall mean the State of North Carolina, the Department of Information Technology (DIT or NCDIT), or the Purchasing State Agency in its capacity as the Contracting Agency, as appropriate.

2. **STANDARDS:** Any Deliverables shall meet all applicable State and federal requirements, such as State or Federal Regulation, and NC State Chief Information Officer's (CIO) policy or regulation. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender or provide to the State only those Deliverables that have been inspected and found to conform to the requirements of this Agreement. All Deliverables are subject to operation, certification, testing and inspection, and any accessibility specifications.

3. **WARRANTIES:** Reserved.

4. **SUBCONTRACTING:** The selected Vendor is solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor and the Agreement. Any contracts made by the Vendor with a subcontractor after the date of this Agreement for the performance of work under this Agreement shall include an affirmative statement that the State is an intended third-party beneficiary of the Agreement; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute for another subcontractor.

5. **TRAVEL EXPENSES:** **All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed.** In the event that the Vendor, upon specific request in writing by the State, is deemed eligible to be reimbursed for travel expenses arising under the performance of the Agreement, reimbursement will be at the out-of-state rates set forth in N.C.G.S. §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles.

6. **GOVERNMENTAL RESTRICTIONS:** In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any budget adjustments occasioned thereby, to cancel the Agreement, or to continue the Agreement without modifying the funding provided by the State. The State may advise Vendor of any restrictions or changes in specifications required by federal or North Carolina legislation, rule or regulatory authority. In the event such changes in specifications required by legislation, rule, or regulatory authority conflicts with or otherwise imposes obligations different from the provisions of this Agreement, the Parties agree to negotiate in good faith to amend this Agreement to preserve the Parties' bargained-for rights hereunder and otherwise give effect to the Parties' intent. If compliance cannot be achieved by the date specified by the State or the Parties cannot agree on an amendment, the Parties may terminate the Agreement in accordance with the termination provisions set forth herein.
7. **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any Contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third-party contingent on the award of any Contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Agreement or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign the Agreement and bind the Party to the terms and conditions of this RFP. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of the Agreement; obligation or Contract for future award of compensation as an inducement or consideration for making the Agreement. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 9 NCAC 06B..1206, or other provision of law.
8. **AVAILABILITY OF FUNDS:** Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation, and availability of funds to the Agency for the purposes set forth in the Agreement. If the Agreement or any Scope of Work issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Agreement or Scope of Work. If the term of the Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is expressly contingent upon the appropriation, allocation, and availability of funds by the N.C. Legislature for the purposes set forth in this RFP. If funds to effect payment are not available, the Agency will provide written notification to the Vendor. If the Agreement is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under the Agreement, terminate any Services supplied to the Agency under the Agreement, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

9. **ACCEPTANCE PROCESS:** Reserved.
10. **PAYMENT TERMS:** Payment terms and processes for services performed under this Agreement will be set out in the Scope of Work and may differ by program.
11. **EQUAL EMPLOYMENT OPPORTUNITY:** Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or physical disability.
12. **ADVERTISING/PRESS RELEASE:** The Vendor absolutely shall not publicly disseminate any information concerning the Agreement without prior written approval from the State or its Agent. For the purpose of this provision of the Agreement, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.
13. **LATE DELIVERY:** Vendor shall advise the Agency contact person or office promptly upon determining that any Deliverable will not, or may not, be delivered or performed at the time or place specified. Together with such notice, the Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall advise Vendor and may proceed to procure substitute Services or Deliverables in accordance with applicable laws and regulations.
14. **ACCESS TO PERSONS AND RECORDS:** Pursuant to N.C.G.S. §147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of the Agreement or to costs charged to the Agreement. The Vendor shall retain any such books, records, and accounts for a minimum of five (5) years after the completion of the Agreement. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation.
15. **ASSIGNMENT:** Vendor may not assign the Agreement or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger that may have any impact on this Agreement, such as the work to be performed and/or the entity performing the work. Any assignee shall affirm the Agreement attorning and agreeing to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under the Agreement. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.
16. **INSURANCE COVERAGE:** During the term of the Agreement, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Agreement. As a minimum, the Vendor shall provide and maintain the following coverage and limits:
 - a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage

with minimum limits of \$100,000.00, covering all of Vendor's employees who are engaged in any work under the Agreement. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Agreement; and

- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
- c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired, and non-owned vehicles, used in connection with the Agreement. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and
- d) **Insurance** - Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of the Agreement. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or the Agreement. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Agreement.

17. DISPUTE RESOLUTION: The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for a decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for a decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under the Agreement. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under the Agreement, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

18. CONFIDENTIALITY: In accordance with N.C.G.S. §143B-1350(e) and 143B-1375, and 09 NCAC 06B.0103 and 06B.1001, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 *et seq.* Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review, that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. ***Pursuant to 09 NCAC 06B .1001, prices presented in response to a solicitation shall not be deemed***

confidential. The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.

- a. Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction, or erasure.
- b. Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all confidential information received during performance of the Agreement in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

19. DEFAULT: In the event Services or other Deliverables furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within 30 days or a longer period specified by the State in its notice, the State may cancel the contract. Default may be the cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

- a. If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by the Agreement, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f) and other applicable law. Vendor is responsible for the delays resulting from its failure to deliver or provide Services or other Deliverables.
- b. Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offer documents that prove erroneous or are otherwise invalid. Any deadline that is affected by Vendor's failure in assumptions or the State's performance shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
- c. Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating

factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.

20. WAIVER OF DEFAULT: Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of the Agreement, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor and made as an amendment to the Agreement.

21. TERMINATION: Any notice or termination made under the Agreement shall be transmitted via both electronic mail and US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

- a. The parties may mutually terminate the Agreement by written agreement at any time.
- b. The State may terminate the Agreement, in whole or in part, pursuant to the Default provisions herein, or for any of the following:
 - i. Termination for Cause: In the event any goods or Service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 22) and 23) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of the Agreement; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary bankruptcy or receivership by Vendor shall be cause for termination.
 - ii. Termination For Convenience Without Cause: The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the State, the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.
 - iii. Consistent failure to participate in problem resolution meetings, two (2) consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the Agreement.

22. LIMITATION OF VENDOR'S LIABILITY:

- a. The Vendor's liability for damages to the State arising under the contract shall be limited to two times the value of the Contract.

- b. The foregoing limitation of liability shall not apply to claims covered by other specific provisions of these Terms and Conditions, or to claims for injury to persons or damage to tangible personal property, gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 et seq., the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on the Agreement.

23. VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a. The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to the performance of the work hereunder, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b. The Vendor agrees to indemnify, defend and hold the Agency and the State and its officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of the Agreement, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors.
- c. Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.

24. TIME IS OF THE ESSENCE: Time is of the essence in the performance of the Agreement.

25. DATE AND TIME WARRANTY: Reserved.

26. INDEPENDENT CONTRACTORS: Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of the State. The Agreement shall not operate as a joint venture, partnership, trust, agency, or any other similar business relationship.

27. TRANSPORTATION: Reserved.

28. NOTICES: Any notices required under the Agreement should be delivered to the Contract Administrator for each party. Unless otherwise specified, any notices shall be delivered via email and in writing by U.S. Mail or Commercial Courier.

29. TITLES AND HEADINGS: Titles and Headings in the Agreement are used for convenience only and do not define, limit, or proscribe the language of terms identified by such Titles and Headings.

30. AMENDMENT: The Agreement may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 36) herein.

31. TAXES: The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of the Agreement. Applicable State or local sales taxes shall be invoiced as a separate item.

32. GOVERNING LAWS, JURISDICTION, AND VENUE:

a. The Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina and applicable Administrative Rules. The place of the Agreement or Scope of Work, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in Contract or in tort, relating to its validity, construction, interpretation, and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to the Agreement, to the jurisdiction of the courts of the State of North Carolina and stipulates that Wake County shall be the proper venue for all matters.

b. Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern the Agreement. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.

33. FORCE MAJEURE: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

34. COMPLIANCE WITH LAWS: The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

35. SEVERABILITY: In the event that a court of competent jurisdiction holds that a provision or requirement of the Agreement violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of the Agreement shall remain in full force and effect

36. CHANGES: The Agreement and subsequent Scope of Work is awarded subject to the provision of the specified Services and the provision of other Deliverables as specified herein. Any changes made to the Agreement or Scope of Work proposed by either Party must be accepted in writing by the other Party. The State shall not be responsible for Services or other Deliverables delivered without a Scope of Work from the Purchasing Agency.

37. FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT: The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property

Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

38. ELECTRONIC PROCUREMENT: Reserved.

39. PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION: Reserved.

40. UNANTICIPATED TASKS: Reserved.

41. STOP WORK ORDER: The State may issue a written Stop Work Order to Vendor for cause at any time requiring Vendor to suspend or stop all, or any part, of the performance due under the Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to the Vendor. The ninety (90) day period may be extended for any further period for which the parties may agree.

- a. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued under this term. Upon receipt of the Stop Work Order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work suspension or stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Vendor, or within any extension of that period to which the parties agree, the State shall either:
 - i. Cancel the Stop Work Order, or
 - ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of the Agreement.
- b. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Vendor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Agreement price, or both, and the Agreement shall be modified, in writing, accordingly, if:
 - i. The Stop Work Order results in an increase in the time required for, or in the Vendor's cost properly allocable to the performance of any part of the Agreement, and
 - ii. The Vendor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon an offer submitted at any time before final payment under the Agreement.
- c. If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
- d. The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

42. TRANSITION ASSISTANCE. Reserved.

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Section 2: Terms and Conditions Applicable to Information Technology Goods and Services

1. **SOFTWARE LICENSE FOR HARDWARE, EMBEDDED SOFTWARE AND FIRMWARE:** RESERVED

2. **RESTRICTIONS:** RESERVED

3. **STATE PROPERTY AND INTANGIBLES RIGHTS:** RESERVED

Section 3: Terms and Conditions Applicable to Personnel and Personal Services

1. **VENDOR'S REPRESENTATION:** Vendor warrants that qualified personnel will provide Services in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under the Agreement. Vendor will serve as the prime Vendor under the Agreement. The Vendor shall be legally responsible for the performance and payment of the subcontractor(s). Names of any third-party vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor shall contractually require third-party subcontractors or vendors to comply with these terms and conditions in connection with any work subject to this Agreement. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).
 - a. Intellectual Property. Vendor represents that it has the right to provide the Services and other Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor also represents that its Services and other Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
 - b. Inherent Services. If any Services or other Deliverables, functions, or responsibilities not specifically described in the Agreement are required for Vendor's proper performance, provision and delivery of the Services and other Deliverables pursuant to the Agreement, or are an inherent part of or necessary sub-task included within the Services, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract.
 - c. Vendor warrants that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially

adversely affect performance of the Agreement; and that entering into the Agreement is not prohibited by any Contract, or order by any court of competent jurisdiction.

- d. No Governmental Non-Competes. Vendor shall not impose or enforce any non-competition agreement upon the employees included in Vendor's bid that would prevent those employees from accepting any offer of employment from the State of North Carolina outside of the first term of the Agreement. By executing this Agreement, the Vendor affirms this condition. This affirmation is a material condition for the State's award of any work under this Agreement.

2. SERVICES PROVIDED BY VENDOR: Vendor shall provide the State with implementation Services as specified in a Scope of Work executed by the parties. This Agreement in combination with each Scope of Work individually comprises a separate and independent contractual obligation from any other Scope of Work. A breach by Vendor under one Scope of Work will not be considered a breach under any other Scope of Work.

3. PERSONNEL: Vendor shall provide notice of any substitution of key personnel assigned to the performance of the Agreement. The individuals designated as key personnel for purposes of the Agreement are those specified in the Vendor's offer. Any substitution shall be notified to the Agency's Contract Administrator in writing accompanied by the names and contact information of Vendor's substitute personnel.

- a. Unless otherwise expressly provided in the Contract, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and other Deliverables.
- b. Unless otherwise provided by the Agency, the Vendor shall furnish all necessary personnel, Services, and otherwise perform all acts, duties, and responsibilities necessary or incidental to the accomplishment of the tasks specified in the Agreement. The Vendor shall be legally and financially responsible for its personnel including, but not limited to, any deductions for social security and other withholding taxes required by state or federal law. The Vendor shall be solely responsible for acquiring any equipment, furniture, and office space not furnished by the State necessary for the Vendor to comply with the Agreement.

4. PERSONAL SERVICES: RESERVED

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ATTACHMENT B: FEDERAL TERMS AND CONDITIONS

The following Federal Terms and Conditions are fully incorporated by reference into this RFP and any project awarded as a result of the RFP, which is supported, in whole or in part, by federal funds. Absent stricter or controlling state provisions, the following federal provisions apply consistent with Appendix II to 2 C.F.R. Part 200 and the American Rescue Plan Act. In addition to the provisions below, different or additional federal terms and conditions may apply to each project as required by the source of federal funding and work involved. If different or additional federal terms apply, the State will notify the Respondent and provide modified or additional terms and conditions as part of the Scope of Work.

- 1. Program Monitoring.** NCDIT is responsible for oversight of the operations of the Federal award supported activities and must monitor each program, function, or activity to assure compliance with applicable Federal requirements and performance expectations are being achieved. Vendor agrees to assist and cooperate fully and in a timely fashion with NCDIT in the monitoring of the project(s) to which this Agreement relates, and to provide in form and manner approved by NCDIT such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.
- 2. Access to Records.** In addition to the NCDIT Terms and Conditions entitled “Access to Persons and Records” included in this Agreement, the following access to records requirements apply to this Agreement:
 - a. The Vendor agrees to provide the NCDIT, the Administrator of the federal agency providing funds hereunder, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b. The Vendor agrees to permit any of the foregoing parties identified in 2(a) above to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The Vendor agrees to provide the Administrator of the federal agency providing funds hereunder or his/her authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.
 - d. In compliance with the Disaster Recovery Act of 2018, NCDIT and the Vendor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the Administrator of the federal agency providing funds hereunder or the Comptroller General of the United States.
- 3. Records Retention.** In addition to the NCDIT Terms and Conditions entitled “Access to Persons and Records” included in this Agreement, all records required to be kept on the project shall be maintained by the Vendor for a least five (5) years after final payments and until all other pending matters under this project have been closed. If any audit, litigation, or other action arising out of or related in any way to this project is commenced before the end of the five (5) year period, the

records shall be retained for one (1) year after all issues arising out of the audit, litigation or other action are finally resolved or until the end of the five (5) year period, whichever is later.

4. **Modifications to Contract.** Modifications to the Agreement are governed by the NCDIT Terms and Conditions entitled "Amendment", which terms are incorporated herein by reference, except as approval and signature by any federal official may also be required.
5. **Termination.** The NCDIT Terms and Conditions regarding termination of the Agreement, including, without limitation, termination for cause and termination for convenience, apply to this Agreement, and are incorporated herein by reference.
6. **Remedies.** The NCDIT Terms and Conditions regarding administrative, contractual, and/or legal remedies for a Vendor's violation or breach of the Agreement's terms, as well as any applicable sanctions and penalties, apply to this Agreement, and are incorporated herein by reference.
7. **Bonding Requirements.** Qualified Vendors may be required to furnish a performance bond and payment bond executed by a surety company authorized to do business in North Carolina. The performance bond and the payment bond each shall be in an amount equal to one hundred percent (100%) of the project price. All bonds shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina. The requirement for a performance and payment bond will be announced with each project to which they may apply.
8. **Clean Air Act.** The Vendor agrees to comply with all applicable standards, orders, and/or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Vendor agrees to report each violation to NCDIT and understands and agrees that NCDIT will, in turn, report each violation as required to the federal awarding agency and the appropriate Environmental Protection Agency Regional Office. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed, in whole or in part, with Federal funds provided by NCDIT pursuant to this Agreement.
9. **Federal Water Pollution Control Act.** The Vendor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* The Vendor agrees to report each violation to NCDIT and understands and agrees that NCDIT will, in turn, report each violation as required to assure notification to the federal awarding agency and the appropriate Environmental Protection Agency Regional Office. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed, in whole or in part, with Federal funds provided by NCDIT pursuant to this Agreement.
10. **Debarment and Suspension.** Due to its receipt of Federal funds, NCDIT is a participant in a non-procurement transaction (defined at 2 C.F.R. § 180.970) that is a covered transaction pursuant to 2 C.F.R. § 180.210, 31 C.F.R. § 19.210, and 2 C.F.R. Part 3000. Therefore, this Agreement is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180, 2 C.F.R. Part 3000, and 31 C.F.R. Part 19 if the amount of this Agreement is greater than or equal to \$25,000.
 - a. **Non-Exclusion Certification.** A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM) at www.sam.gov, in accordance with the Office of Management and Budget (OMB)

Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) at 2 C.F.R. Part 180. The Vendor hereby certifies as of the date hereof, that the Vendor, the Vendor's principals (defined at 2 C.F.R. § 180.995), and the affiliates (defined at 2 C.F.R. § 180.905) of both the Vendor and the Vendor's principals are not excluded individuals (defined at 2 C.F.R. § 180.940) and are not disqualified (defined at 2 C.F.R. § 180.935), or otherwise determined ineligible to participate in federal assistance awards or contracts. If any of the foregoing persons are excluded or disqualified and the federal awarding agency has not granted an exception pursuant to 2 C.F.R. § 180.135 and 31 C.F.R. § 19.120(a), then: (1) this Agreement shall be void, (2) NCDIT shall not make any payments of federal financial assistance to the Vendor, and (3) NCDIT shall have no obligations to the Vendor under this Agreement.

- b. **Compliance with 2 C.F.R. Part 180, Subpart C, 2 C.F.R. Part 3000, Subpart C and 31 C.F.R. Part 19.** The Vendor must comply with the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 C.F.R. Part 180, Subpart C and 2 C.F.R. Part 3000, Subpart C, and as adopted by the U.S. Department of the Treasury at 31 C.F.R. Part 19 and must include a requirement to comply with these regulations in any lower-Tier¹ covered transaction into which it enters. The Vendor agrees to comply and hereby certifies that it will comply with 2 C.F.R. Part 180, Subpart C, 2 C.F.R. Part 3000, Subpart C, and 31 C.F.R. Part 19 while this offer is valid and throughout the period of the Agreement resulting from a relevant solicitation herein. The Vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions. These certifications are a material representation of fact relied upon by NCDIT, and all liability arising from an erroneous representation shall be borne solely by the Vendor.
- c. **Remedies for Non-Compliance.** If it is later determined that the Vendor did not comply with 2 C.F.R. Part 180, Subpart C, 2 C.F.R. Part 3000, Subpart C, and 31 C.F.R. Part 19, in addition to remedies available to NCDIT, the federal government may pursue available remedies, including but not limited to, suspension and/or debarment.
- d. **Subcontractor Certification.** The Vendor hereby certifies that none of the subcontractors it has proposed to perform work under this Agreement are listed under the State Debarred Vendors listing (<https://ncadmin.nc.gov/documents/nc-debarred-vendors>), or in the past five (5) years have been suspended or debarred from doing business with the federal or any state government. The Vendor agrees that it will notify NCDIT immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at www.sam.gov.

11. Byrd Anti-Lobbying Amendment. The Vendor shall comply with the restrictions on lobbying in 31 CFR Part 21.

¹ "Tier" shall have the meaning indicated in 2 C.F.R. Part 180 and illustrated in 2 C.F.R. Part 180, Appendix II.

- a. The Vendor certifies to NCDIT, and the Vendor shall cause each Tier below it to certify to the Tier directly above such Tier, that it has not used and will not use federally appropriated funds to pay any person or organization to influence or attempt to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. The Vendor shall, and shall cause each Tier below it, to disclose any lobbying with non–federally appropriated funds that takes place in connection with obtaining any federal award. Such disclosures (to be set forth on Standard Form-LLL, contained in 31 C.F.R. Part 21, Appendix B) shall be forwarded from Tier to Tier up to NCDIT, which will, in turn, forward the certification(s) to the federal awarding agency. The Vendor shall cause the language of this Section to be included in all subcontracts. This certification is a material representation of fact upon which NCDIT has relied when entering into this Agreement, and all liability arising from an erroneous representation shall be borne solely by the Vendor.
- b. If Vendor applies or bids for an award exceeding \$100,000, the Vendor also must file with NCDIT the required certification. Any subcontractor with a subcontract (at any Tier) exceeding \$100,000 must also file with the Tier above it the required certification. The latest version of the “Certification for Contracts, Grants, Loans, and Cooperative Agreements” can be found at <https://ncadmin.nc.gov/documents/vendor-forms>.

12. Wages and Labor Standards. The U.S. Department of Treasury, in its reporting guidance for State and Local Fiscal Recovery Funds and Capital Projects Funds, respectively, has indicated that recipients must provide documentation of wages and labor standards for projects over \$10 million (SLFRF) and/or for projects of \$5 million or more (CPF), which requirement can be met with certifications that the project is in compliance with the Davis-Bacon Act (or related state laws, commonly known as “baby Davis-Bacon Acts”) and subject to a project labor agreement, or as specified below:

- a. **Prevailing Wages Certification.** A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis-Bacon Acts”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - The number of employees of contractors and sub-contractors working on the project;
 - The number of employees on the project hired directly and hired through a third party;
 - The wages and benefits of workers on the project by classification; and
 - Whether those wages are at rates less than those prevailing. 19 Recipients must

maintain sufficient records to substantiate this information upon request.

b. **Project Labor Certification.** A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:

- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training;
- How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
- How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
- Whether the project has completed a project labor agreement.

c. **Local Hire Prioritization.** Whether the project prioritizes local hires.

d. **Community Benefit Agreement.** Whether the project has a Community Benefit Agreement, with a description of any such agreement.

13. Affordable Connectivity Program. The Vendor must participate in the Federal Communications Commission Affordable Connectivity Program (“ACP”), or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.

14. Copeland Anti-Kickback Act. In accordance with the Copeland Anti-Kickback Act (40 U.S.C. 3145), as supplemented by the Department of Labor regulations at 29 CFR Part 3, the Vendor understands and agrees that it is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. NCDIT shall report any and all suspected or reported violations of this Section to the federal awarding Agency.

15. Contract Work Hours and Safety Standard Act. Contracts awarded by NCDIT in excess of one-hundred thousand dollars (\$100,000.00) that involve the employment of mechanics or laborers are required to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor Regulations at 29 CFR Part 5.

- a. **Overtime requirements.** In accordance with 29 C.F.R. §5.5(b)(1), the Vendor understands and agrees that it will compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours, and that work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Vendor further understands and agrees that no mechanic or laborer is required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.
- b. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the “overtime requirements” clause set forth in (1) above (29 C.F.R. §5.5(b)(1)) the Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 29 C.F.R. §5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 C.F.R. §5.5(b)(1).
- c. **Withholding for unpaid wages and liquidated damages.** NCDIT shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 C.F.R. §5.5(b)(2).
- d. **Subcontracts.** The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of 29 C.F.R. §5.5 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 C.F.R. §5.5(b)(2) through (4).

16. Prohibition on Contracting for Covered Telecommunications Equipment or Services.

Pursuant to 2 C.F.R. § 200.216, the Vendor agrees not to expend funds it receives pursuant to this Agreement to procure or obtain, or to enter into, extend, or renew a contract to procure or obtain equipment, services, or systems that **use** covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is defined in 2 C.F.R. § 200.216.

17. Program Fraud and False or Fraudulent Statements or Related Acts. The Vendor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and

Statements) applies to its actions pertaining to this Agreement. Making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in state or federal awards or contracts, and/or any other remedy available by law.

18. Protections for Whistleblowers. In accordance with 41 U.S.C. § 4712, the Vendor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing, to any of the list of persons in 41 U.S.C. § 4712(a)(2), information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. The Vendor is hereby notified that it is required to: (a) inform its employees that they are subject to the whistleblower rights and remedies of the program; (b) inform its employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and (c) include such requirements in any agreement made with a subcontractor or subgrantee.

19. Equal Opportunity & Other Requirements. The Vendor shall adopt and enact a nondiscrimination policy consistent with the requirements in this Section. The Vendor acknowledges that NCDIT is bound by and agrees, to the extent applicable to the Vendor, to abide by the provisions contained in the federal statutes enumerated below and any other federal statutes and regulations that may be applicable to the expenditure of Federal funds:

a. **Equal Employment Opportunity.** All contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity”, as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity” and implementing regulations at 41 C.F.R. Part 60. The equal opportunity clause provided under 41 C.F.R. 60-1.4(b) is incorporated into the Agreement by reference in accordance with 41 C.F.R. 60-1.4(d).

b. **Assurances of Compliance with Title VI of the Civil Rights Act of 1964.** The Vendor and any subcontractor, or the successor, transferee, or assignee of the Vendor or any subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §§ 2000d *et seq.*), as implemented by the U.S. Department of the Treasury’s Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also provides protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d *et seq.*, as implemented by Treasury’s Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Agreement.

- c. **Disability Protections.** Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- d. **Age Discrimination.** The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
- e. **Americans with Disabilities.** Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 *et seq.*), which prohibits discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- f. **Fair Housing Laws.** The Vendor shall comply with the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

20. Solicitation of Small Businesses and Historically Underutilized Businesses. If the Vendor intends to let any subcontracts, it shall encourage and promote the use of small businesses and historically underutilized businesses, such as (1) assuring that small and historically underutilized businesses are solicited whenever they are potential sources; (2) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and historically underutilized businesses; (3) establishing delivery schedules, where the requirement permits, which encourage participation by small and historically underutilized businesses; and (4) using the services and assistance, as appropriate, of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the North Carolina Office for Historically Underutilized Businesses.

For the purposes of this Agreement, an entity shall qualify (1) as an “historically underutilized business” if it is currently certified as such under Chapter 143, Section 128.4 of the N.C. General Statutes, and (2) as a “small business” if it is independently owned and operated and is qualified under the Small Business Administration criteria and size standards at 13 C.F.R. Part 21.

21. Energy Efficiency. All participants in the projects funded hereby shall recognize mandatory standards and policies relating to energy efficiency in compliance with the Energy Policy and Conservation Act (PL 94-163).

22. Federal Seals, Logos, and Flags. The Vendor shall not use the seal(s), logos, crests, or reproductions of flags of the federal funding agency or likenesses of any federal agency officials without specific pre-approval of the relevant federal agency.

23. System for Award Management (SAM). The Vendor shall provide to NCDIT, a unique entity identifier assigned by the System for **Award** Management (SAM), which is accessible at www.sam.gov. Vendor shall be responsible to ensure that it has checked the federal SAM,

<https://www.sam.gov/SAM/>, and the State Debarred Vendors listing, <https://ncadmin.nc.gov/documents/nc-debarred-vendors>, to verify that Contractors or sub-recipients have not been suspended or debarred from doing business with federal or State government.

- 24. Federal Funding Accountability and Transparency Act of 2006.** If applicable, the Vendor shall take all steps necessary to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).
- 25. Publications.** Any publications related to the Agreement must be paid for independently by the Vendor (i.e., not with federal award funds) and must display the following language: “This project [is being][was] supported, in whole or in part, by funds awarded to the State of North Carolina by the U.S. Department of the Treasury.”
- 26. Compliance with Federal Law, Regulations, and Executive Orders.** Vendor acknowledges that federal funds will be used to fund all or a portion of the Agreement. The Vendor agrees it will comply with all applicable federal law, regulations, executive orders, and the policies, procedures, and directives of the federal agency(ies) providing funding, including without limitation and to the extent applicable, 2 C.F.R. Part 200, and any American Rescue Plan Act (ARPA) requirements and guidance established by the United States Department of Treasury (Treasury) for ARPA funding.
- 27. No Obligation by Federal Government.** The Federal Government is not a party to the Agreement and is not subject to any obligations or liabilities to the non-Federal entity, Vendor, or any other party pertaining to any matter resulting from the Agreement.

[The remainder of this page intentionally blank.]

ATTACHMENT C: DESCRIPTION OF OFFEROR

Provide information about the offeror:

Offeror's full name		
Offeror's address		
Offeror's telephone number		
Ownership	<input type="checkbox"/> Public <input type="checkbox"/> Partnership	<input type="checkbox"/> Subsidiary <input type="checkbox"/> Other (specify)
Date established		
If incorporated, State of incorporation.		
North Carolina Secretary of State Registration Number, if currently registered		
Number of full-time employees on January 1 st for the last three years or for the duration that the Vendor has been in business, whichever is less.		
Offeror's Contact for Clarification of offer: Name Title Email address and Telephone Number		
Offeror's Contact for Negotiation of offer: Name Title Email address and Telephone Number		
If Contract is Awarded, Offeror's Contact for Contractual Issues: Name Title Email address and Telephone Number		
If Contract is Awarded, Offeror's Contact for Technical Issues: Name Title Email address and Telephone Number		

ATTACHMENT D. HISTORICALLY UNDERUTILIZED BUSINESSES

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included as HUBs are disabled business enterprises and non-profit work centers for the blind and severely disabled.”

Pursuant to N.C.G.S. §§ 143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this RFP. Contact the North Carolina Office of historically Underutilized Businesses at 919-807-2330 with questions concerning NC HUB certification. <http://ncadmin.nc.gov/businesses/hub>

Respond to the questions below.

1. Is Vendor a Historically Underutilized Business?

Yes No

2. Is Vendor Certified with North Carolina as a Historically Underutilized Business?

Yes No

If the answer to Question 2 is “Yes”, state HUB classification:

(Hub Classification)

Signature: _____ Date: _____

Printed Name: _____ Title: _____

ATTACHMENT E: VENDOR CERTIFICATION FORM

1. ELIGIBLE VENDOR

The Vendor certifies that in accordance with N.C.G.S. §143-59.1(b), Vendor is not an ineligible vendor as set forth in N.C.G.S. §143-59.1 (a).

The Vendor acknowledges that, to the extent the awarded contract involves the creation, research, investigation or generation of a future RFP or other solicitation; the Vendor will be precluded from bidding on the subsequent RFP or other solicitation and from serving as a subcontractor to an awarded vendor.

The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Vendor, or as a subcontractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a competitive advantage on the RFP or other solicitation.

2. CONFLICT OF INTEREST

Applicable standards may include: N.C.G.S. §§143B-1352 and 143B-1353, 14-234, and 133-32. The Vendor shall not knowingly employ, during the period of the Agreement, nor in the preparation of any response to this solicitation, any personnel who are, or have been, employed by a Vendor also in the employ of the State and who are providing Services involving, or similar to, the scope and nature of this solicitation or the resulting contract.

3. E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the State shall not enter into a contract unless the awarded Vendor and each of its subcontractors comply with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Vendors claiming exceptions or exclusions under Chapter 64 must identify the legal basis for such claims and certify compliance with federal law regarding registration of aliens including 8 USC 1373 and 8 USC 1324a. Any awarded Vendor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.

4. CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA

As a condition of the contract award, an awarded Vendor shall have registered its business with the North Carolina Secretary of State and shall maintain such registration throughout the term of the Contract.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with N.C.G.S. §143B-1361(b), Vendor must identify how it intends to utilize resources or workers located outside the U.S., and the countries or cities where such are located. The State will evaluate additional risks, costs, and other factors associated with the Vendor's utilization of resources or workers prior to making an award for any such Vendor's offer. The Vendor shall provide the following:

- a. The location of work to be performed by the Vendor's employees, subcontractors, or other persons, and whether any work will be performed outside the United States. The Vendor shall provide notice of any *changes* in such work locations if the changes result in performing work outside of the United States.
- b. Any Vendor or subcontractor providing support or maintenance Services for software, call or contact center Services shall disclose the location from which the call or contact center Services are being provided upon request.

Will Vendor perform any work outside of the United States?

YES NO

Signature: _____ Date: _____

Printed Name: _____ Title: _____

ATTACHMENT G: COUNTY LIST

For the Completing Access to Broadband (CAB) Program, Respondents should indicate below the North Carolina counties where they may have an interest in expanding broadband infrastructure. Collection of this information is solely to gauge the level of interest for each county. Selecting or not selecting a county in the following list neither obligates nor eliminates a Respondent from participating in a Scope of Work request for any or all listed counties.

_____ All Counties

County Name	County Name	County Name
Alamance County	Columbus County	Hoke County
Alexander County	Craven County	Hyde County
Alleghany County	Cumberland County	Iredell County
Anson County	Currituck County	Jackson County
Ashe County	Dare County	Johnston County
Avery County	Davidson County	Jones County
Beaufort County	Davie County	Lee County
Bertie County	Duplin County	Lenoir County
Bladen County	Durham County	Lincoln County
Brunswick County	Edgecombe County	Macon County
Buncombe County	Forsyth County	Madison County
Burke County	Franklin County	Martin County
Cabarrus County	Gaston County	McDowell County
Caldwell County	Gates County	Mecklenburg County
Camden County	Graham County	Mitchell County
Carteret County	Granville County	Montgomery County
Caswell County	Greene County	Moore County
Catawba County	Guilford County	Nash County
Chatham County	Halifax County	New Hanover County
Cherokee County	Harnett County	Northampton County
Chowan County	Haywood County	Onslow County
Clay County	Henderson County	Orange County
Cleveland County	Hertford County	Pamlico County

	Pasquotank County		Rutherford County		Wake County
	Pender County		Sampson County		Warren County
	Perquimans County		Scotland County		Washington County
	Person County		Stanly County		Watauga County
	Pitt County		Stokes County		Wayne County
	Polk County		Surry County		Wilkes County
	Randolph County		Swain County		Wilson County
	Richmond County		Transylvania County		Yadkin County
	Robeson County		Tyrrell County		Yancey County
	Rockingham County		Union County		
	Rowan County		Vance County		