

The Hill Building 21c Museum Hotels

Durham-Based Business Plan

Pursuant to that certain Contract between the City of Durham, a North Carolina municipal corporation (the “City”) and 21c Museum Hotels, a limited liability corporation organized and existing under the laws of North Carolina, including its subsidiaries (“21c”) regarding funds for capital investments to the Hill Building, effective as of _____ 2012 (the “Contract”), 21c has agreed to make certain capital investments in the City (the “Project”).

Purpose/Goals

The purpose of this Durham-Based Business Plan (the “Plan”) is to encourage the use of Durham-based firms in an OEWD database in connection with the Project. Through this process, Durham-based firms that may not have otherwise received consideration due to lack of exposure to the larger business community may have the opportunity to become involved in this Project in their community.

Administration

This Plan shall be administered by 21c and the City and shall take effect when signed by the parties below and shall be fully effective until Completion Date (as defined in the Contract), including any extension or modification to such date. The Plan will implement the following guidelines and activities:

A. *Durham-Based Firm Identification Resources.* 21c agrees to undertake the following:

- 1. Prior to the execution of the Contract, meet with the Director of the Office of Economic and Workforce Development or appropriate staff to establish project goals.**

21c and the City through the Director of the Office of Economic and Workforce Development or such other authorized employee of the City will meet and mutually set specific goal(s) under the Plan for the Project (the “Goals”). The Goals for this Project shall be those Goals set forth in Section C of this Plan.

- 2. Use the City’s database.**

21c will review the list of Durham-based firms that are supplied by the City for those qualified and available to work on the Project.

- 3. Use of local organizations.**

In the event a review of the City’s database does not identify any Durham-based eligible to work on the Project, 21c agrees to request from one or more of the offices listed below,

as 21c determines, the identity of any qualified Durham-based firms for work on the Project:

- Durham Business & Professional Chain
- NC Institute of Minority Economic Development, Inc. contractors and vendor listing
- RDU International Airport Authority Minority Database
- Small Business Administration (SBA) Minority Database
- North Carolina Department of Transportation (NCDOT) Database

B. Outreach. 21c will solicit interest by Durham-based firms in the Project utilizing the following:

1. Provision of written notice to qualified Durham-based firms with the list supplied in the City database that could perform the work to be subcontracted.

21c will send invitations to bid to qualified Durham-based firms, as determined by 21c, in the City SDBE database expressing the desire to receive a proposal from such Durham-based firms for scope of work in their respective areas of expertise. 21c will provide to the City a complete listing of all qualified firms that received invitations to bid on the Project. 21c will maintain documentation on any written requests made to SDBE firms in regards to solicitation of work on the Project.

2. Timelines of notice to permit sufficient time for response of Durham-based firms.

In the event 21c is able to provide the City with notice of upcoming projects, 21c agrees to permit the City to notify Durham-based firms of those upcoming projects. These notifications may include a brief description of the project, potential subcontracting opportunities and anticipated solicitation dates. Some of the specific efforts the City may employ for notifying small business firms include, but are not limited to, direct notification through phone calls or written notification through fax or email, and advertisements in local and statewide minority newspapers.

3. Pre-bid Meetings with Durham-based firms.

As commercially reasonable, 21c will host pre-bid meetings in which qualified Durham-based firms will be invited to attend. When commercially reasonable and practicable, 21c will provide two to three weeks after the prebid meetings and corresponding invitations to bid for the Durham-based firms to provide their proposals.

C. Procurement & Recruitment

With the understanding that firms must meet qualification requirements and that 21c, its contractors and sub-contractors will have the intent and make good faith efforts toward ensuring equal contracting opportunities for Durham-based firms and the following contracting goal will be established for the Project:

- An aggregate of \$ _____ of capital expenditures will be completed or performed by enterprises

The aforementioned goal will be established for work including, but not limited to the following construction and hospitality trades:

- Asphalt work
- Site utilities
- Flooring painting
- Case work
- Saw cutting
- Landscaping
- Concrete
- Doors & framing
- Hardware
- Miscellaneous metals and steel erection
- Hotel maintenance

21c will employ the following efforts in order to recruit businesses:

- 1. Distribute lists of qualified Durham-based firms, as determined by 21c, to prime bidders at the pre-bid meeting.**

21c will document any correspondence and information related to qualified Durham-based firms that has been provided to prime bidders. 21c will maintain a visitor sign in log at the local office of the Construction Manager for all prime bidders and Durham-based firms who attend meetings related to the Project.

D. Technical Assistance

21c will provide technical assistance to Durham-based firms to aid them in the preparation of prequalification statements and proposals by:

- 1. Provide construction schedules with the bid packages to allow Durham-based firms to better understand their general conditions.**
- 2. Offer referral assistance to Durham-based firms by providing them with a list, when available of vendors, service providers and/or prime contractors.**
- 3. Provide assistance with prequalification forms.**

21c will provide commercially reasonable assistance to Durham-based firms with prequalification forms.

E. Other Purchases

21c will involve Durham-based firms in the Project through:

- 1. Allowing qualified Durham-based firms to bid on the professional services, vendor and supplier and non-professional services aspects of the Project to the extent that such qualified Durham-based firms are able, in addition to the construction aspects of the Project.**

F. Monitoring and Reporting

21c will document the Plan's actual accomplishments by:

1. Analyzing and auditing majority trade contractors' bidding records to assure a minimum good faith effort. To the extent requested in writing by the City, 21c will provide a letter certifying as to compliance of these actions within 10 business days of receipt of such written request.
2. Providing quarterly reporting. Reports shall be submitted by the 15th day of the month following the close of each quarter (January, April, July and October) and shall include a list of any Durham-based firms participating in the Project during the prior quarter, the category of each Durham-based firm, a description of the work completed by such Durham-based firm during the prior quarter and the amount paid to each Durham-based firm in the prior quarter.
3. Preparing and presenting a final report on the recruitment of Durham-based firms to work on the project.

Following the completion of the Project, 21c will compile all quarterly reports previously provided to the City into one comprehensive Project Report and will deliver this to the City within 120 days following the completion of the Project.

[Signature Page Follows]

CITY OF DURHAM

By: _____
City Manager

Date: _____

By: _____
Director, City of Durham Office of Economic and Workforce Development

Date: _____

21C MUSEUM HOTELS

By: _____

Date: _____