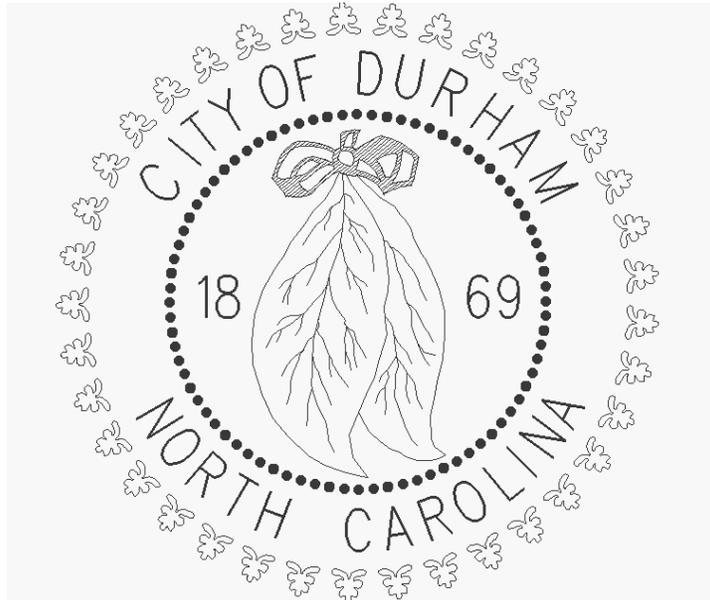


CITY OF DURHAM, NORTH CAROLINA

CONTRACT AND SPECIFICATIONS

FOR



CONTRACT MR-10

2013

RESIDENTIAL METER REPLACEMENT

PHASE IV

**Administrative Division, Department of Water Management
1600 Mist Lake Drive, Durham, NC, 27704
P: 919-560-4381, F: 919-560-4479**

CONTRACT MR-10

2013

RESIDENTIAL METER REPLACEMENT

PHASE IV

**ADMINISTRATIVE DIVISION
DEPARTMENT OF WATER MANAGEMENT
CITY OF DURHAM, NORTH CAROLINA**

MAYOR AND CITY COUNCIL
William V. Bell, Mayor

Howard Clement, III
Eugene A. Brown
Diane N. Catotti

Don Moffitt
Cora Cole-McFadden
Steve Schewel

CITY STAFF

Thomas J. Bonfield City Manager
Patrick Baker, City Attorney
D. Ann Gray, City Clerk
W. Bowman Ferguson, Deputy City Manager
Donald F. Greeley, Director of Water Management
Andy Brogden, Water & Sewer Maintenance Superintendent

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DEFINITIONS

Whenever terms as shown in quotation marks below are used throughout the Legal Notice, Instructions to Bidders, Proposal, Bid Bond, Specifications, Performance Bond, Contract, etc., the intent and meaning shall be interpreted as follows:

"City"The City of Durham, North Carolina

"City Council"The City Council of the City of Durham, North Carolina

"City Manager"The City Manager of the City of Durham, North Carolina or a duly authorized agent

"Engineer"The Director of Water Management employed by the City Manager acting directly as a representative of the City of Durham or an authorized representative of the Director of Water Management assigned to the project.

"Inspector"An authorized representative of the Engineer assigned to make any and all inspections of the work performed, acting under the direct supervision of the Engineer.

"Chemist"An authorized representative of the City of Durham acting through the Director of Water Management

"Laboratory" The official Testing Laboratory of the City of Durham acting through the Director of Water Management

"Bidder"Any individual, firm or corporation duly licensed by law to perform such work and submitting a proposal for the Work contemplated.

"Contractor" Party of the second part of the Contract, acting directly or through a duly authorized representative.

"Superintendent" or "Foreperson"The Contractor's representative in charge of the work forces responsible for the Work in accordance with the specifications.

ADVERTISEMENT FOR BIDS

The City will open sealed Bids at **3:00 p.m., local time, on Tuesday, March 19, 2013** in the Department of Water Management, Administration Division, 1600 Mist Lake Drive, Durham, North Carolina, 27704 for the following Project: “**Contract MR-10, 2013 Residential Meter Replacement, Phase IV**” for the replacement of approximately 13,250 5/8” and 1” residential water meters with automatically read meters. A list of the accounts scheduled for replacement is available upon request.

Specifications may be examined at the following locations:

| | |
|--------------------------------|------------------------------------|
| Department of Water Management | Department of Water Management |
| City of Durham | City of Durham |
| Administrative Offices | Water & Sewer Maintenance Division |
| 1600 Mist Lake Drive | 1100 MLK Parkway |
| Durham, NC 27704 | Durham, NC 27707 |

Associated General Contractors and Dodge Plan Rooms Raleigh, Greensboro, Charlotte
North Carolina Institute for Minority Economic Development (NCIMED) Plan Room, 114 W.
Parrish Street, Durham, NC 27701

To obtain a copy of the specifications contact either Mr. Bryant Green, PE, Civil Engineer III, @ 919-560-4381, ext. 35268 or by e-mail to Bryant.green@durhamnc.gov. Copies of the specifications require a non-fundable plan deposit in the form of a \$30.00 check payable to the City of Durham.

Only bids submitted by pre-qualified bidders will be considered responsive. **The deadline for submitting completed Contractor Pre-Qualification Forms will be Tuesday, March 12th, 2013 by Close of Business.** Bidders should contact the City EO/EA Department at 919-560-4180 for pre-qualification requirements and forms. A non-mandatory Pre-Bid Conference will be held at the Public Works Operations Center, 1100 Martin Luther King Jr. Parkway, Durham, NC, at 2:00PM. on Tuesday, March 5th, 2013.

The City Council of the City of Durham reserves the right to reject any or all Proposals, to waive any and all informalities, and to disregard all nonconforming or conditional Proposals or counter Proposals, and to accept the Proposal that will be in the best interest of the City. The City Council has adopted a resolution that requires the City to solicit minority and women owned businesses to Bid on the Project. **The established goals for this project are a 0% goal for minority and 0% goal for women participation.**

No Proposal shall be considered unless accompanied with a deposit of cash, cashier's check, certified check or Bid Bond, in the amount of 5% of the Proposal, payable to the City of Durham, North Carolina.

Each Bidder must show evidence that it is licensed under Chapter 87 of the NC General Statutes. Bidders must conform with the provisions of the North Carolina Contractor's Licensing Act of 1925, as amended.

GENERAL INSTRUCTIONS TO BIDDERS

1. PROJECT LOCATION. The work contemplated under the provisions of this Contract is located throughout the City and County of Durham.
2. CITY OF DURHAM STANDARDS: See specifications within this document.
3. DOCUMENTS. Contract documents, including plans and specifications, are on file in the Department of Water Management, 1600 Mist Lake Dr., Durham, North Carolina, 27704, (919) 560-4381. To obtain a copy of the specifications contact either Mr. Bryant Green, PE @ 919-560-4381, ext 35268 or at the following email addresses:

Bryant.Green@durhamnc.gov

4. PRIME CONTRACTOR QUALIFICATIONS. The Prime Contractor shall demonstrate that they have the ability to complete **a majority of all** portions of the Contract using **their own equipment and personnel**. The Prime Contractor shall include the following information in the Proposal in the spaces provided:
 - a. The number of years the Prime Contractor has been regularly engaged in similar Contract work and a list of projects they have completed with their equipment and personnel.
 - b. A list of the Prime Contractor's personnel experienced to do the Work including the foreperson or forepersons, or superintendent to be in charge of the Work, including the length of their experience with this type of work.
 - c. A list of the Prime Contractor's equipment in good condition and suitable for completion of the Contract.

If the Prime Contractor fails to demonstrate they have the ability to complete a majority of all portions of the Contract with their own equipment and personnel, the bid may be considered non-responsive. If a Contractor bids the project as a Joint Venture or Partnership, the majority portion of the contract shall be performed using the equipment and personnel of the Joint Venture or Partnership parties.

The Prime contractor and all subcontractors shall obtain a City of Durham Privilege License from the Treasury Office Located at 101 City Hall Plaza, (919) 560-4700.

In determining the lowest responsible bid, the City shall be free, through the judgment of the Engineer, to consider whether the bidder has provided satisfactory evidence of qualifications. It shall be understood that the preliminary acceptance of the bidder's qualifications shall not in any way constitute a waiver of the performance of any portion of the work as herein specified.

5. BIDDER'S NAME. Each proposal shall contain the full name and address of each Bidder. When firms bid, the name of each member shall be signed and the firm name added, and the submission shall be done as more specifically stated herein under Section 10 below.

6. INTERPRETATION OF PLANS. If any person contemplating submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of the plans, specifications, SDBE Requirements, or other proposed Contract documents, a written request for an interpretation thereof may be submitted to the Engineer. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by addendum duly issued, a copy of which will be mailed or delivered to each person receiving a set of such documents. The Engineer will not be responsible for any other explanation or interpretation of the proposed documents.

7. SITE VISITS. Prospective Bidders should visit the site of the contemplated work to familiarize themselves with the surroundings. A list of all addresses where meters are to be replaced in this Contract is available upon request. The Contractor shall note that this list may not include every meter where a replacement will be requested in MR-10, and should not be interpreted as a definitive list of every meter replacement.

8. PREBID and PRECONSTRUCTION CONFERENCES. There will be a non-mandatory prebid conference for all prospective Bidders. The prebid conference will allow prospective Bidders an opportunity to address engineering and SDBE questions and to identify potential SDBE subcontractors. There will be a preconstruction conference held with the successful Bidder and all known subcontractors prior to the issuance of a Notice to Proceed.

9. BID PROPOSAL. All bids submitted must be on the blank proposal forms herein provided, and, if requested on the Proposal Form, the prices given shall be both in writing and in figures for the total of each item. In case of conflicting prices, the written price shall govern. No bid shall be accepted or considered unless the complete set of documents is included with the Contractor's proposal.

10. BID ENVELOPE. Bids shall be enclosed in a sealed envelope directed to Department of Water Management, Administrative Division City of Durham, North Carolina. If bids are sent by mail, FedEx, UPS, etc., the bid shall be enclosed in a sealed envelope and then enclosed in a mailing envelope or carton. **All** of the information listed below shall appear on the outside of the sealed envelope containing the bid. Failure to include the information listed below on the outside of the envelope containing the bid may result in the bid being considered non-responsive.

A. Bid Identification:

Project Name: Proposals for CONTRACT MR-10, 2013 RESIDENTIAL METER REPLACEMENT, PHASE IV

Name of Bidder: _____

The above-named Bidder has completed and enclosed the following items in the bid:
(Check all that apply)

- ___ Proposal
- ___ Non-Collusion Affidavit of Prime Bidder
- ___ Bid deposit or bid bond
- ___ SDBE Construction Forms

B. Bid Delivery:

- (i) If the bid is delivered by an overnight service, such as UPS, overnight USPS, FedEx, etc. then the bid envelope should arrive **by noon (12:00 pm) on the day of the Bid at:**

City of Durham
Department of Water Management
1600 Mist Lake Dr.
Durham, North Carolina 27704.
(919) 560-4381

Attn: Donald F. Greeley PE, PLS

- (ii) If the bid is delivered by regular U.S. Mail, then the bid envelope should arrive, at the address below, **no later than the day prior to the Bid at:**

City of Durham
Department of Water Management
101 City Hall Plaza
Durham, North Carolina 27701.

Attn: Donald F. Greeley PE, PLS

NOTE: If there is a failure, by those choosing to send in bids, to follow the procedures and timing discussed above, the bids may be deemed non-responsive and therefore rejected. The City of Durham reserves the sole right to classify such bids as responsive or non-responsive. The Sender assumes all responsibility for the delivery of the Bid.

11. **BID DEPOSIT.** No proposal shall be considered or accepted unless at the time of its filing the same shall be accompanied by a deposit of cash or a certified or cashier's check drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation, in an amount equal to five percent (5%) of the amount of the proposal. The check shall be made payable to the City of Durham. Said deposit shall guarantee that the Contract will be entered into by the successful Bidder if the award is made. Such deposit of cash or certified or cashier's check may be held by the City until the successful Bidder has executed and delivered the Contract documents, including performance and payment bond, to the City of Durham and returned or kept in accordance with N.C.G.S. 143-129.
12. **BID BOND.** In lieu of the cash deposit or certified or cashier's check mentioned above, the Bidder may file a bid bond in the same amount executed by a corporate surety authorized to execute such bonds in North Carolina and conditioned as provided by N.C.G.S. 143-129 and in the form attached to the Contract documents on file with the Engineer. Bid bond forms enclosed as part of the Contract documents must be properly executed at the time bids are submitted before bid will be considered. Properly executed Power of Attorney of the corporate surety's agent shall accompany such bond and be attached to the page provided therefore in the Contract documents. A bid bond form is included in the specification.
13. **BID WITHDRAWAL.** No Bidder may withdraw a bid within 90 days after the actual date of opening of such bids except to the extent, if any, that may be allowed by law.
14. **PERFORMANCE/PAYMENT BONDS.** The Bidder to whom the award is made shall be

required to enter into the proposed Contract with the City of Durham, North Carolina, and furnish a performance bond and a labor and materials payment bond acceptable to the City of Durham, and executed by a surety company licensed to do business in the State of North Carolina, in an amount equal to one hundred percent (100%) of the Contract sum. Performance Bond and Payment Bond forms are included at the end of this specification.

15. PRIVILEGE LICENSE. The bidder's attention is called to the requirement for a City of Durham Privilege License, for the General Contractor as well as all subcontractors. Proof of this license must be provided within 5 business days of the bid Opening. The prime contractor and all subcontractors can obtain a City of Durham Privilege License from the Treasury Office located at 101 City Hall Plaza (919)560-4700.
16. SDBE REQUIREMENTS. Attention of bidders is particularly called to the requirement for affirmative action and Small Disadvantaged Business Enterprises (SDBE) participation. These requirements are described in detail under the section entitled Small Disadvantaged Business Enterprise Requirements.

The bidders are REQUIRED to complete the SDBE forms and submit the completed forms with the bid.

Each bidder must submit a "Statement of Intent to Perform as a Subcontractor" for each SDBE subcontractor within five (5) days after the bid opening. The "Letter of Intent to Perform as a Subcontractor" can be found in the end of the SDBE Section and must be signed by each SDBE subcontractor. SDBE goal participation is calculated by multiplying the goal percentage times the bid price. A listing of City of Durham certified SDBE firms for this project, if any, can be found in the Appendix.

17. PRICE OMISSION. The omission of prices upon any item for which bids are asked or the tendering of any unbalanced bid may be the cause of the rejection of the bid submitted.
18. ESTIMATED QUANTITIES. The estimated quantities contained in the Proposal are for the purpose of comparing bids, and while they are close approximations, they are not guaranteed. Payment will be made on the basis of the Work as actually executed at the unit prices set forth in the executed Contract and under the provisions of such Contract.
19. INCIDENTAL COSTS. There shall be no additional compensation to the Contractor for materials, equipment, or work that is incidental to the successful completion of the Contract. Incidental costs, for example those costs associated with water supply, waste disposal, traffic control, testing, etc., are defined within the Specifications of this Document and City of Durham's Water and Sewer Construction Specifications, and Street Construction Specifications. It is the Contractor's responsibility to account for all such costs in the appropriate unit price proposed.
20. SPECIAL NOTICE-NORTH CAROLINA SALES AND USE TAX. The Bidder's attention is called to the fact that the 1961 General Assembly of North Carolina adopted legislation which required that Contractors pay North Carolina Sales and Use Tax on materials, supplies, fixtures, and equipment used by the Contractor in the performance of contracts with cities, counties and towns on contracts dated July 1, 1961 or later.

The General Assembly also authorized a refund to cities, counties, and towns of sales and

use taxes paid on direct purchases of tangible personal property and construed purchases in the performance of contracts to be direct purchases.

THE BIDDER WILL NOT INCLUDE NC SALES TAX
NOR USE TAX IN UNIT PRICES BID.

The Contractor will be reimbursed for all NC Sales and/or Use Tax paid during any preceding month, at the time the monthly estimate is paid, provided they submit the following:

Sworn notarized statement (two copies) itemizing the tax, showing each amount and to whom it was paid, and certifying that the articles purchased were used in work performed for the owner. State tax and county tax must be separated. Group amounts by county and provide a subtotal for each county. Receipts/invoices (one copy) must be provided for these amounts.

21. CONTRACT ADDITIONS: The City has the right to extend the Contract upon the same terms as at the same unit prices. Any addition of new projects will be only by mutual agreement between the City and the successful Bidder.
22. SURVEY STAKE-OUT AND RECORD DRAWING SUBMITTAL. section deleted.
23. INCLEMENT WEATHER DAYS: section deleted
24. FINAL PAYMENT: Prior to issuing final payment, the Contractor will furnish to the City certification that: **All subcontractors and vendors associated with this contract have been paid; no liens and/or lawsuits have been placed against the contractor for this project; and the total dollar amount has been paid to all subcontractors and major suppliers associated with this project.**
25. CORPORATION, PARTNERSHIP OR INDIVIDUAL BIDDER. The bidder's attention is called to the fact that a separate provision is made for signing the proposal for a corporation, a partnership, or an individual. Care should be taken that he/she sign and execute the contract in accordance with his/her classification. If the proposal is made by a corporation, the president or vice president must sign, attested by the secretary or assistant secretary and the corporate seal affixed thereto. If the proposal is made by an individual, his/her name and office address must be shown. If made by a firm or partnership, the name and office address of the firm or partnership must be shown.
26. NON-COLLUSION AFFIDAVITS. The bidder's attention is called to the fact that non-collusion affidavits are included as a part of the proposal. The affidavit of the prime bidder must be completed and submitted as a part of the bid. Affidavits of **all** subcontractors must be filed within five (5) business days of the bid opening.
27. CONTRACTOR PREQUALIFICATION: The Contractor's attention is directed to the prequalification requirement of Bidders. The Contractor must be prequalified with the City at the time of the bid opening. Bidders must submit the completed Prequalification Forms to the City of Durham Equal Opportunity/Equity Assurance Department, by the deadline for submission of these forms as shown in the Advertisement for Bids, in order for City review

of such requests to be completed prior to the bid opening. The Prequalification Forms are included in this document. All questions concerning Prequalification should be directed to the City of Durham Equal Opportunity/Equity Assurance Department (919) 560-4180.

28. MOBILIZATION: section reserved.
29. SDBE SUBCONTRACTOR PAYMENT: The Contractor's attention is directed to the new SDBE program requirement to promptly pay and document subcontractor payments (contract section entitled Prompt Payment to Subcontractors). The Contractor shall pay the subcontractor within seven (7) days of receipt of payment. Prior to receiving the following month's payment, the Contractor shall document prompt payment of the subcontractors. The Contractor shall at the end of the project, document the final amount paid to each Subcontractor. The forms for monthly and end of project reporting can be found in the appendix.

SPECIAL REQUIREMENTS FOR BIDDERS

1. SDBE DOCUMENTS. All questions concerning the SDBE documents/forms and **Pre-qualification** should be directed to the City of Durham Equal Opportunity/Equity Assurance Office at (919) 560-4180.

2. WRITEN NOTICE TO CITIZENS. Prior to beginning the work, the Contractor shall provide a one-week advance written notice to all individuals, homeowners, business owners, utilities, and others who may be affected by any aspect of the work. Such notice may be delivered by in-person door contact or door knob hanger and shall briefly describe the nature and estimated timetable of the work and shall provide any additional information or instructions that may be desirable or necessary. The notice must NOT be distributed more than one week in advance. The notice shall also include the name and telephone number of the Contractor's contact person for further information related to the project. A proposed draft of the written notice shall be submitted by the Contractor to the Engineer for approval prior to the initiation of any work. The one week notices shall be provided in both English and Spanish.

After the new meter is installed the contractor shall place a door hanger at the location of the meter that was replaced. The door hanger shall indicate the time and date the meter was replaced and contact information should there be any problems or questions. A proposed draft of the written notice shall be submitted by the Contractor to the Engineer for approval prior to the initiation of any work. The door hanger shall be two-sided, with an English language version on the front and a Spanish language translation on the reverse. If a meter service adjustment is required, the Contractor shall indicate the time and date the service will be adjusted and shall inform the property owner that water will temporarily be unavailable during this period.

3. ON-SITE SUPERVISION – The Contractor is required to maintain an on-site supervisor to oversee the meter replacement. The supervisor must be on-site during any meter replacement activities. The supervisor must have a minimum of 3 years experience in residential meter replacement. The supervisor will be responsible for overseeing all meter replacement crews.

4. REQUIRED CITY TRAINING – All employees of the contractor performing meter replacement are required to attend a 1-day training session given by Department of Water Management Water & Sewer Maintenance Division personnel prior to engaging in any meter replacement activities. The contractor shall give a minimum of 72 hours notice to the City when requesting the training. One training session per week will be available for the first month of the contract; for the second month of the contract, two trainings total will be available; for the third month of the contract one training will be available. Any additional training will be at the cost of \$200.00 per training event.

PROPOSAL FOR FURNISHING
ALL LABOR, EQUIPMENT, TOOLS, ETC.
FOR COMPLETE CONSTRUCTION
OF

CONTRACT MR-10

RESIDENTIAL METER REPLACEMENT

PHASE IV

DURHAM, NORTH CAROLINA

To The City of Durham, North Carolina
c/o The City Manager
City Hall
Durham, North Carolina

The undersigned Bidder hereby declares that the names of all persons interested in this Proposal as principals appear in the blank spaces hereinafter provided for such purpose, that this Proposal is in all respects fair and without collusion, that the Bidder has examined the locations of the proposed work, the advertisement, the instruction to Bidders, the specifications, SDBE requirements of the Minority and Women Business Enterprise Plan of the City of Durham, the Contract documents and Bond forms, and the plans and drawings therein referred to and fully understands the same and agrees and accepts the terms and conditions thereof, that it is understood that the estimated quantities are approximate only and are given for the purpose of comparing bids upon a uniform basis, and that said estimate shall in no way effect the unit prices for the Work.

The undersigned Bidder hereby agrees to furnish at the Bidder's cost the expense of all the necessary labor, tools, apparatus, machinery, equipment, transportation and all other things which may be required to fully and properly perform all the terms, covenants, provisions and agreements of the attached Contract.

The undersigned hereby agrees to do said work and furnish said materials as prescribed in the Contract and Specifications, and, according to the plans and requirements of the Engineer under said Contract and Specifications, in a first-class manner and to the best of the undersigned's ability at the unit prices listed in the bid.

**Proposal for
CONTRACT MR-10
RESIDENTIAL METER REPLACEMENT
PHASE IV**

Bid Submitted by _____

Contractor License Number _____

The unit price for the Bid Items shown below are for complete furnishing and installation of items, in accordance with City of Durham Standards and Specifications, and this Contract Document.

| Item | Description | Quantity | Unit | Unit Cost | | Total Cost |
|--|--|----------|---------------|-----------|--|------------|
| 1 | Mobilization (not to exceed 1% of the total cost) | 1 | Lump Sum (LS) | | | |
| 2 | Clean meter box, remove existing meter, furnish & install new 5/8" residential meter, per specifications | 13,000 | Each | | | |
| 3 | Clean meter box, remove existing meter, furnish & install new 1" residential meter, per specifications | 250 | Each | | | |
| 4 | GPS location of residential meter, per specifications, | 13,250 | Each | | | |
| 5 | Provide records for residential, per specifications | 13,250 | Each | | | |
| 6 | Equipment Purchase Allowance | 1 | LS | \$80,000 | | \$80,000 |
| 7 | Meter Box Height Adjustment | 100 | Each | | | |
| 8 | Replace Meter Box Lids | 2000 | Each | | | |
| Total Base Bid: | | | | | | |
| Additional Alternate | | | | | | |
| 9 | Provide Expansion Wheels – 5/8" | 7900 | Each | | | |
| 10 | Provide Expansion Wheels – 1" | 100 | Each | | | |
| Total Add Alternate Bid: | | | | | | |
| Total Base Bid Plus Additional Alternate Bid: | | | | | | |

Acknowledgement of Receipt of Addenda:

Addendum No _____,

Addendum No _____,

This Page intentionally left blank.

All Bidders are hereby advised that the City will only accept bids from qualified contractors who have successfully completed a minimum of three (3) projects during the past five (5) years of a similar type as the project being bid, and whose project Superintendent and Field Supervisor have also successfully completed a minimum of three (3) projects of a similar type during the past five (5) years. Failure to demonstrate compliance to the following qualification requirements will render the bid non-responsive. Projects of the following type represent projects of a similar type:

- a) Replacement of residential water meters for a contract with at least 8,000 replacements within no less than 12 months. Contract experience should also include the management of data records associated with meter replacement

| Project Name | Project Superintendent | Owner | Contact Person | Telephone |
|--------------|------------------------|-------|----------------|-----------|
|--------------|------------------------|-------|----------------|-----------|

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List of Prime Contractor's equipment in good condition and suitable for the completion of this Contract. Prime Contractor must be able to demonstrate they own majority of equipment necessary to complete all portions of the Contract. The list shall not include subcontractor equipment.

| |
|--|
| |
| |
| |
| |

Respectfully submitted,

By: _____
Signature of Person, Firm or
Corporation

President

Address

Phone Number

Contact Person

Attest:

Secretary

State of North Carolina General Contractor License No. _____

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____ County of _____
_____, being first duly sworn, deposes and says that:

1. He is _____ of _____, the bidder that has submitted the attached bid;
 2. He is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
 3. Such bid is genuine and is not a collusive or sham bid;
 4. Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy connivance or unlawful agreement any advantage against the _____ (Local Public Agency) or any person interested in the proposed contract; and
- (b) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

_____ Title

Subscribed and sworn to before me this
____ day of _____, 20____

Title

My Commission Expires _____

NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR

(to be submitted with bid or within 5 business days of Bid Opening. Required for ALL Subcontractors, SDBE and non-SDBE)

State of _____ County of _____
_____, being first duly sworn, deposes and says that:

1. He is _____ of _____, hereinafter referred to as the "Subcontractor";

2. He is fully informed respecting the preparation and contents of the subcontractor's Proposal submitted by the subcontractor to _____ the Contractor for certain work in connection with the _____ Contract pertaining to the Project in _____ (City or County and State);

3. Such subcontractor's Proposal is genuine and is not a collusive or sham proposal;

4. Neither the subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham Proposal in connection with such contract or to refrain from submitting a Proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful agreement or connivance with any other bidder, firm or person to fix the price or prices in said contractor's Proposal, or to fix any overhead, profit or cost element of the price or prices in said contractor's Proposal, or to secure through collusion, conspiracy connivance or unlawful agreement any advantage against the _____ (Local Public Agency) or any person interested in the proposed contract; and

(b) The price or prices quoted in the subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

Title

Subscribed and sworn to before me this
___ day of _____, 20___

Title

My Commission Expires _____

BID BOND for the City of Durham

Contract name and number or other description of the Contract:

Name of Bidder:

Name, address, and telephone number of Surety's N. C. Resident Agent:

Telephone number of Surety's home office:

Surety is a corporation organized and existing pursuant to the laws of the State of:

Amount of this bond: *check one:*

(write or type the amount in words and figures) All numbers in this section are in U. S. dollars.

(\$ _____)

five percent of the amount of the proposal

Date of execution of this bond:

Obligee: CITY OF DURHAM, a North Carolina municipal corporation.

* * * * *

KNOW ALL PERSONS BY THESE PRESENTS, that the Surety executing this bond, which Surety is duly licensed to act as surety in North Carolina, is held and firmly bound unto the City of Durham, Obligee, in the penal sum of the amount stated above, for the payment of which sum, well and truly to be made, the Surety binds itself and its successors and assigns, jointly and severally, by these presents. Whereas the Bidder is herewith submitting a proposal for the Contract referred to above, and the Bidder desires to file this Bid Bond in lieu of making the cash deposit pursuant to G.S. 143-129; NOW THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such, that if the Bidder shall be awarded the contract for which the bond is submitted, and shall, within ten days after the award is made, execute and deliver to the Obligee the contract and give satisfactory surety as required by G.S. 143-129, then this obligation shall be null and void, otherwise to remain in full force and virtue; and if the Bidder fails or refuses to so execute and deliver said contract or give said satisfactory surety, the Surety shall upon demand forthwith pay to the Obligee the full penal sum of this bond. The Surety waives all extensions of time, and notice of extensions of time, for the opening of proposals and for the modification, award, execution, and delivery of the contract. IN WITNESS WHEREOF, the Surety has executed this instrument under its seal as of the date of execution indicated above, pursuant to authority of its governing body.

(Name of Surety)

(Signature of Surety's attorney in fact)
(Affix Surety's corporate seal.)

(Instructions to Surety: If you use a raised corporate seal, press hard enough to make it legible)

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF BID BOND

State of _____ County of _____

I, _____, a notary public in and for said county and state, certify that _____ personally appeared before me this day and acknowledged that he or she is Attorney in Fact for _____, the Surety named in the foregoing Bid Bond, in which bond the Obligee is the City of Durham, and that he or she executed said bond, under the seal of the Surety, on behalf of the Surety.

This the _____ day of _____, 20_____.

My commission expires: _____
_____ Notary Public

PRIME CONTRACTOR PRIVILEGE LICENSE
(TO BE PROVIDED WITHIN 5 BUSINESS DAYS AFTER BID OPENING)

SMALL DISADVANTAGED BUSINESS ENTERPRISE

REQUIREMENTS

CITY OF DURHAM, NC

PROJECT GOALS FOR

CONTRACT MR-10

RESIDENTIAL METER REPLACEMENT

PHASE IV

The bidders are **REQUIRED** to complete the SDBE forms and submit the completed forms with the bid.

MSDBE

WSDBE

GENERAL CONSTRUCTION

0 %

0 %

Per Section 26-8. (a) of the Ordinance to Promote Equal Business Opportunities in

City Contracting: “SDBE’s that are owned by SED persons who are not Blacks or women may be counted by the Bidder towards either SDBE goal.”

MSDBE – Small Disadvantaged Business Enterprise owned by Blacks

WSDBE – Small Disadvantaged Business Enterprise owned by women

SDBE – Small Disadvantaged Business Enterprise

SED – Socially Economic Disadvantaged

SDBE Listing of Applicable Businesses

| Name | Mailing Address | City | State | Zip | Gender/ Race ID | Contact | Phones | Services | Licenses |
|--|-------------------------------------|--------|-------|-----------|-----------------------|---------------------|--|---|---------------------|
| Davis Technical Staffing and Consulting | 2726 Croasdaile Dr., Ste. 208 | Durham | NC | 2770 5 | M | Karl Davis | 919-383-8617; fax919-383-8718; kdavis@dtsconline.com | Staffing Services and Construction Management Consulting | |
| Karl Staffing Com., Inc. dba Monarch Services | 112 W. Main Street | Durham | NC | 2770 1 | M | Meredythe Holmes | 919-490-0000; C 919-395-7228; mholmes@monarchsvc.com | staffing administrative; staffing- manufacturing; staffing-technical; executive recruitment | Durham Business |
| Technical Services, Inc. | 2402-A Reichard Street | Durham | NC | 2770 5 | W | Lisa Pineiro | 919-620-8909; fax866-553-9036; tsi-durham@nc.rr.com | temporary staffing/employment agency with emphasis on electrical construction | Durham Privilege |



CITY OF DURHAM SMALL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

PROCUREMENT FORMS

Revised 06/08



Mailing Address:

101 City Hall Plaza
Durham, North Carolina 27701
Phone: 919-560-4180
Facsimile: 919-560-4513

Street Address:

302 East Pettigrew Street, C-180
Durham, North Carolina 27701

The Department of Equal Opportunity/Equity Assurance
Good Things Are Happening In Durham

Small Disadvantaged Business Enterprise Ordinance SDBE Procurement Documentation

If applicable information is not submitted with your bid, your bid will be deemed non-responsive.

Declaration of Performance must be completed and submitted with your bid.

Managerial Profile must be used to list the managerial persons in your work force who will be participating in this project.

Equal Employment Opportunity Statement for your company must be completed and submitted with your bid.

Employee Breakdown must be completed and submitted for the location providing the service/commodity. If the parent company will be involved in providing the service/commodity on the City contract, a consolidated employment breakdown must be submitted.

COMPLETE THIS FORM
DECLARATION OF PERFORMANCE BY VENDOR/CONTRACTOR

Briefly address each of the following items:

1. A brief synopsis of the company and the products/services it provides:
2. Describe the normal procedure used on a bid of this type, giving the flow of purchase from the company to the ultimate purchaser:
3. List anyone outside of your company with whom you will contract on this bid:

The undersigned vendor/contractor certifies that:

- (a) It is normal business practice of the vendor/contractor to perform all elements of the contract with its own work force without the use of subcontractors/vendors; and
- (b) That the above documentation demonstrates this firm's capabilities to perform all elements of the contract with its own work force or without the use of subcontractors/vendors.

Date

Authorized Signature

COMPLETE THIS FORM
Managerial Profile

Name of Firm: _____

Contact person: _____

Title: _____

Address: _____

Telephone No.: _____

Date: _____

List the managerial persons in your work force who will be participating in this project, including name, position, and whether the individuals are minority or woman within the definition* of the City of Durham's Minority and Women Business Enterprises Ordinance.

Managerial Employees

| <u>NAME</u> | <u>POSITION</u> | <u>(YES/NO)</u> <u>MINORITY/WOMAN</u> |
|-------------|-----------------|--|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

*"Minority" means an individual who is a citizen or lawful permanent resident of the United States and who is a "Black American", a person having origins in any of the Black racial groups of Africa. On building contracts, construction over \$100,000.00 or federally funded projects, the federal and/or state definitions apply.

COMPLETE THIS FORM
EQUAL OPPORTUNITY STATEMENT

COMPLETE THIS FORM OR ATTACH COMPUTERIZE FORM

EMPLOYEE BREAKDOWN

Part A – Employee Statistics for the Primary Location

| Employment Category | Total Employees | Total Males | Total Females | M-----a-----l-----e-----s | | | | | F-----m-----a-----l-----e-----s | | | | |
|---------------------|-----------------|-------------|---------------|---------------------------|-------|----------|---------------------------|--------------------------|---------------------------------|-------|----------|---------------------------|--------------------------|
| | | | | White | Black | Hispanic | Asian or Alaskan Islander | Indian or Alaskan Native | White | Black | Hispanic | Asian or Pacific Islander | Indian or Alaskan Native |
| Project Manger | | | | | | | | | | | | | |
| Professional | | | | | | | | | | | | | |
| Labor | | | | | | | | | | | | | |
| Clerical | | | | | | | | | | | | | |
| Totals | | | | | | | | | | | | | |

Part B – Employee Statistics for the Consolidated Company (See instructions for this form on whether this part is required.)

| Employment Category | Total Employees | Total Males | Total Females | M-----a-----l-----e-----s | | | | | F-----m-----a-----l-----e-----s | | | | |
|---------------------|-----------------|-------------|---------------|---------------------------|-------|----------|---------------------------|--------------------------|---------------------------------|-------|----------|---------------------------|--------------------------|
| | | | | White | Black | Hispanic | Asian or Alaskan Islander | Indian or Alaskan Native | White | Black | Hispanic | Asian or Pacific Islander | Indian or Alaskan Native |
| Project Manger | | | | | | | | | | | | | |
| Professional | | | | | | | | | | | | | |
| Labor | | | | | | | | | | | | | |
| Clerical | | | | | | | | | | | | | |
| Totals | | | | | | | | | | | | | |

SPECIFICATIONS

GENERAL REQUIREMENTS

1. **SCOPE.** The Contractor shall furnish all licensing, equipment, materials, labor and supervision, as may be necessary to provide for completion of the work as described elsewhere.
2. **PERMITS.** The Contractor shall, without additional expense to the City be responsible for obtaining any permits or licenses, including a City of Durham privilege license, that the work may require, in accordance with Federal, State and local regulations.
3. **COMPLIANCE WITH APPLICABLE LAWS.** The Contractor shall be fully and solely responsible for the safe work and complete safety compliance of the Contractor's employees and agents, in accordance with all applicable Federal, State and local laws and regulations as may apply, including, but not limited to OSHA Parts 1910 and 1926.
4. **NOISE ORDINANCE.** The Contractor shall comply with the City of Durham noise ordinance which, generally, prohibits construction activities between the hours of 11:00 p.m. and 7:00 a.m., seven days per week and in the vicinity of religious establishments at such times as their religious services are being conducted.
5. **SUBCONTRACTING.** No work shall be subcontracted by the Contractor without the prior written authorization of the City of Durham
6. **WORK PRECAUTIONS.** The Contractor shall work in a skillful manner and shall exercise extreme caution not to damage any property outside the right of way or easement by any means. The Contractor shall be responsible for repair or restoration of any and all damage to property outside the area of work designated by the City, due either to normal work procedures or to the negligence of the Contractor or employees or agents thereof. The City may, in writing, require the Contractor to remove from the project any employee the City deems to be incompetent or careless.
7. **DAMAGE.** The Contractor shall be responsible for the complete and acceptable repair or replacement of any damages by its operation under this contract.
8. **NOTICE TO PROCEED.** No work will commence until such time that a preconstruction conference is held and Contract documents are executed. Liquidated damage charges shall begin to accrue if work does not begin within 10 days of the issuance of the "Notice to Proceed".
9. **NOTIFICATION.** The Contractor shall coordinate all of activities with the AMR Meter Replacement Coordinator or designee. No work will proceed without the AMR Meter Replacement Coordinator's approval.
10. **ACCESS.** The City will designate a potential means of access to all areas in which work is to be performed under this contract. The Contractor shall not work outside the designated areas for any purpose, including access, unless directed by the City.

11. EQUIPMENT AND MANPOWER. The Contractor shall perform the work with equipment and manpower that will produce the desired results, both specified and those implied by the Contract Documents. .
12. PROGRESS If the Contractor fails to make acceptable progress, as defined by the Engineer, the Owner shall have the right to:
 - a. suspend the work until the Contractor can demonstrate that he or she can produce at an acceptable rate or
 - b. terminate the contract.

If either of the above situations occur then the Contractor shall not receive any additional compensation other than what work was performed.

13. PAYMENT. The City will pay the unit price as provided in the quotation on a monthly progress payment basis, based upon the Contractor's submittal on an acceptable form. The monthly payment requests must include the North Carolina Sales Tax Reporting Form, even if no sales tax has been charged to the Contractor during that payment period. Unit prices quoted will remain in effect until the job is complete. Prior to submitting Payment Request, the Contractor and Inspector shall discuss and agree upon the appropriate quantities on the Payment Request.
14. RESTORATION. The Contractor shall restore any areas damaged during construction or used for temporary access to the original condition prior to the start of work.
15. CLEANUP. The Contractor shall keep the work site clean and orderly, free of debris and discarded materials. The contractor shall leave all work areas free of debris that will inhibit the access of any equipment or operation of the facility.
16. PUBLIC NOTIFICATION AND RELATIONS. The Contractor shall print and mail postcard notification to all property owners affected by the MR-10 meter replacement project. The City will supply the Contractor with valid mailing addresses. The Contractor shall send the postcard notifications within 30 days of Notice to Proceed. At least seven days before replacing each meter, the Contractor shall supply written door hanger notice to each affected customer. The door hangers shall provide the date, approximate time and duration of water service disruption as well as including language required by the City. Replacement of water meters shall not be permitted until each affected customer has received postcard and door hanger notification. All Contractor personnel shall wear identification badges provided by the Contractor as well as high-visibility shirts or jackets clearly indicating the name of the Contractor. All requirements described in this section shall be provided at no additional cost to the owner.
17. WORK WITHIN THE CITY. The City may direct the Contractor to work in different districts and areas at different times. Additional payment or time shall not be granted to the Contractor based on such direction.

Meter Material Specifications

I. 5/8" x 1/2" Disc Type Water Meter

- a. All meters shall conform to the standard specifications for Cold Water Meters - Displacement Type, as adopted by the American Water Works Association (AWWA) (Specifications No. C700-95 or latest revision) except where noted. In the interest of standardization for AMR purposes, all meters shall be the Neptune T-10 E-Coder R900i LP meter (Part number RV2F11) Durham Revision (latest datalogging model) as manufactured by the Neptune Technology Group. Meters with a vertical antenna are not permitted.
- b. Disc Type meters shall be of the hermetically sealed register type, with magnetic drive, shall be bronze cased, including the bottom plate or section, with a brass or suitable synthetic polymer bottom plate, and a suitable synthetic polymer or bronze top.
- c. The method of testing meters shall conform to that recommended by the committee on Standard Specifications for Water Meters and AWWA Standard C705.
- d. A certificate shall be furnished with each shipment of meters stating that the meters meet the requirements of the standard specifications for water meters as adopted by the American Water Works Association. A CD-ROM shall be furnished with each shipment bearing pertinent information on the meters in the shipment, such as serial numbers, MIU numbers, date of manufacture, etc.
- e. Registers shall be of the straight reading cubic foot type with a one thousandths cubic foot registration. Registers shall provide at least a nine-digit registration at the meter. Registers shall provide an eight-digit meter reading for transmission. The register shall employ a visual LCD leak detection indicator as well as provide remote leak detection through an ASCII format. The manufacture shall guarantee that the reading obtained electronically shall match the reading on the register and that the manufacturer will pay the difference at the current rate whenever a discrepancy appears. Batteries and digital counters using volatile memory are not allowed. Encoder registers shall display flow rate information at the register. Registers shall be able to retrieve at least 90 days of hourly consumption data on demand, provide backflow, leak and tamper information and operate within the 902-928 unlicensed RF band width. The meter serial number shall be provided on outside surface of the cap.
- f. Each meter and register shall be guaranteed for a period of twenty (20) years from the date of delivery against faulty material and workmanship. The meter reading itself shall also be guaranteed. The manufacturer shall reimburse the City for the difference in cost of an inaccurate read.
- g. The following sections of AWWA Specifications are modified by these supplemental specifications as follows:

1. Meters shall be of the split case type.
2. The serial number of the meter shall be imprinted on the main case and shall have the RF ID printed on the register box.
3. Coupling nuts and tail pieces shall not be furnished.
4. Registers shall be hermetically sealed, straight reading in cubic feet with a nine digit resolution.

II. 1" Displacement Type Water Meters

1. All meters shall conform to the standard specifications for Cold Water Meters - Displacement Type, as adopted by the American Water Works Association (AWWA) (Specifications No. C700-95 or latest revision) except where noted. In the interest of standardization for AMR purposes, all meters shall be the Neptune T-10 E-Coder R900i LP meter Durham Revision (latest datalogging model) part number RV2F31 as manufactured by the Neptune Technology Group. Meters with a vertical antenna are not permitted.
2. Disc Type meters shall be of the hermetically sealed register type, with magnetic drive, shall be bronze cased, including the bottom plate or section, with a brass or suitable synthetic polymer disc chamber, and a suitable synthetic polymer or bronze top.
3. The method of testing meters shall conform to that recommended by the committee on Standard Specifications for Water Meters and AWWA Standard C705.
4. A certificate shall be furnished with each shipment of meters stating that the meters meet the requirements of the standard specifications for water meters as adopted by the American Water Works Association. A CD-ROM shall be furnished with each shipment bearing pertinent information on the meters in the shipment, such as serial numbers, MIU numbers, date of manufacture, etc.
5. Registers shall be of the straight reading cubic foot type with a one thousandths cubic foot registration. Registers shall provide at least a nine-digit registration at the meter. Registers shall provide an eight-digit meter reading for transmission. The register shall employ a visual LCD leak detection indicator as well as provide remote leak detection through an ASCII format. The manufacture shall guarantee that the reading obtained electronically shall match the reading on the register and that the manufacturer will pay the difference at the current rate whenever a discrepancy appears. Batteries and digital counters using volatile memory are not allowed. Encoder registers shall display flow rate information at the register. Registers shall be able to retrieve at least 90 days of hourly consumption data on demand, provide backflow, leak and tamper information and operate within the 902-928 unlicensed RF band width.
6. Each meter and register shall be guaranteed for a period of twenty (20) years from the date of delivery against faulty material and workmanship. The meter reading

itself shall also be guaranteed. The manufacturer shall reimburse the City for the difference in cost of an inaccurate read.

7. The following sections of AWWA Specifications are modified by these supplemental specifications as follows:
 - i. Meters shall be of the split case type.
 - ii. The serial number of the meter shall be imprinted on the main case and shall have the RF ID printed on the register box.
 - iii. Coupling nuts and tail pieces shall not be furnished.
 - iv. Registers shall be hermetically sealed, straight reading in cubic feet with a nine digit resolution.

Expansion Wheel Material Specifications

I. 5/8" Expansion Wheels

1. Expansion wheels for 5/8" meters shall be the 5/8" Expansion Connection for 5/8" meters (Catalog Number EC-1) as manufactured by the Ford Meter Box Company, Inc

II. 1" Expansion Wheels

1. Expansion wheels for 1" meters shall be the 1" Expansion Connection for 1" meters (Catalog Number EC-4) as manufactured by the Ford Meter Box Company, Inc

Installation Requirements

1. CLEANING METER BOXES. The contractor shall be responsible for cleaning out all dirt and debris within the existing meter box prior to setting the new meter. The contractor will be responsible for hauling away dirt and debris to a disposal site. The City will provide a location near the replacement zones for a disposal site.
2. EXISTING METERS. The contractor shall transport all existing meters removed under this contract to a designated site at the Public Works Operations Center on a daily basis at the start of business hours (8:00 AM, Monday-Friday.) The number of existing meters returned to the City shall equal the installations done, estimated by the Engineer.
3. REQUIRED METER INFORMATION. At each meter location the contractor shall record the service address, meter size, service style, old meter serial number, the reading on the old meter register, account number (provided by the City of Durham), the new meter - serial number, the new meter MIU number, the reading on the new meter register. In addition, the contractor shall record the GPS location of the meter. All the information shall be recorded in an ASCII standard format as provided by the City below and be submitted to a representative of Water and Sewer Maintenance on a daily basis. A monthly summary of all meters replaced shall also be provided in a spreadsheet, the format of which shall be provided by the City. All data shall be submitted daily to the City except GIS data, which may be submitted on a weekly basis. In addition, the contractor shall record the type of meter lid that is in place and whether it was replaced. The condition of the meter box will also be recorded. The Contractor shall provide the meter information in spreadsheet format as follows:

[1-30] Utility Account Number Char(30) R
[31,39] Customer Number for Account/Service/Sequence Integer R
[40,45] Service Code Char(6) R
[46,48] Service Sequence (right justified zero filled) Smallint R
[49,52] Old Meter Manufacturer Code** Char(4) R
[53,67] Old Meter Serial Number Char(15) R
[68,68] Old Meter Status Char(1) R
[69,77] Old Meter Ending Read Integer R
[78,85] Old Meter Last Read Date MMDDYYYY Date R
[86,87] Old Meter Reason Code** Char(2) R
[88,127] Old Meter Comment Char(40) R
[128,131] New Meter Manufacturer Code** Char(4) R
[132,146] New Meter Serial Number Char(15) R
[147,147] New Meter Device** Char(1) O
[148,149] New Meter Test Circle** Char(2) O
[150,150] New Meter Type* ** Char(1) O
[151,154] New Meter Size* ** Char(4) O
[155,158] New Meter Flow Type* ** Char(4) O
[159,159] New Meter Number of Dials* Smallint O
[160,160] New Meter Number of Fixed Zeros* Smallint O
[161,175] New Meter Remote ID Char(15) O

[176,184] New Meter Starting Read Integer R
[185,192] New Meter Install Date MMDDYYYY Date R
[193,207] New Meter Serial #2 Char(15) O
[208,222] New Meter Serial #3 Char(15) O
[223,237] New Meter Cast ID Char(15) O
[238,241] New Meter Model** Char(4) O
[242,242] New Meter Service Category (“ “, “E”, “G”, “O”, or “W”) Char(1) O
[243,246] New Meter Condition ** Char(4) O
[247,261] New Meter Reference Char(15) O

4. GPS (Global positioning System) REQUIREMENTS. All meter locations within the project area shall be located via GPS. The contractor shall locate all meter locations where (i) new meters were installed, (ii) existing meters that were left in place and (iii) locations where meter boxes were vacant. All work shall be supervised by a registered Professional Land Surveyor in North Carolina who will certify the completed work.
- a. **GPS Accuracy Requirements** - Meters shall be collected with a sub-foot mapping grade GPS receiver. Delivered GPS data shall have +(-) 1 foot horizontal accuracy. The GPS data shall be post-processed using the City of Durham CORS (Continuously Operating Reference Station).
http://www.durhamnc.gov/departments/works/cors_index.cfm. Data shall be on the NAD 83 North Carolina State Plane coordinate system, NAD 83 horizontal datum, NAVD 88 vertical datum, GRS 80 ellipsoid, and in US survey feet.
 - b. **Data Submittals** - Data shall be delivered in either a comma-delimited ASCII file or GIS file (shapefile or personal geodatabase), at a minimum containing the following columns: MeterID, Easting(X), Northing(Y), Elevation(Z), Date, Time, PDOP, Horizontal Precision, Vertical Precision, and Total Positions. A written survey report shall summarize all data collection activities such as a description of GPS equipment (manufacturer and model), the dates and times of each collection activity, field notes including descriptions of obstructions preventing data collection or causing reduced accuracy, and post-processing software, procedures and accuracy results. Data shall be delivered to the City within 48 hours of meter installation. Payment for GPS location of residential meter shall not be made for any meter for which data has not been received.
 - c. **Meters within close proximity of each other** - Meters within a 1-foot distance of another meter shall be sketched in a field book to show relative location and MeterID or Meters within a 1-foot distance of another meter shall be photographed and have MeterID labeled on the photograph.
5. DIGITAL PICTURES REQUIRED. The contractor is required to take a digital picture of both the existing and new meter in place showing the reading on the register. The picture should clearly show the reading and serial number of the existing meter prior to the meter being removed and the new meter after installation. The file name of each picture should include the date and time the picture was taken. The contractor shall place all pictures on a portable USB drive or ftp site hosted by the Contractor and submit the drive to the City representative on a daily basis. The drive will be returned to the contractor once the City has downloaded the files. Payment for meter installation shall not be made for any meter for which digital photographs have not been received.

6. METER BOX LIDS. The contractor shall maintain a supply of meter box lids with the crews during meter replacement. The Contractor shall replace broken meter box lids as directed. When the Contractor is directed to replace a lid, the Contractor shall dispose of the old lids at the Public Works Operation Center. The City shall supply the contractor with new meter box lids. A separate log sheet shall be kept by the contractor to indicate the locations where new meter box lids were installed. This sheet will need to be turned in to the City for the contractor to receive additional meter box lids. The replacement of meter box lids shall be paid under the line item in the bid.

7. EXPANSION WHEELS. The contractor shall maintain a supply of expansion wheels and gaskets with the crews during meter replacement. When the contractor encounters an expansion wheel or gasket that cannot be reused, the contractor shall remove and replace the existing expansion wheel or gasket. An expansion wheel shall be considered unusable if the wheel leaks, is cracked, worn, pushed out of round shape, has cracked, torn or worn gaskets or has defective washers. Wheels shall also be considered unusable if the wheel is corroded, has imperfections or physical damage. All expansion wheels that are not the four-spoke design as manufactured by Ford Meter Box Company shall be replaced. All meter wheels damaged by the contractor shall be replaced at the contractor's expense. The contractor shall dispose of the old expansion wheels at the Public Works Operation Center. The City shall supply the contractor with new expansion wheels. A separate log sheet shall be kept by the contractor to indicate the locations where new expansion wheels were installed. This sheet will need to be turned in to the City for the contractor to receive additional expansion wheels. The expansion wheels and the meter box lid log sheets can be combined into one log sheet for both items. This log sheet will be turned in on a daily basis.

The Contractor shall furnish all required replacement washers and gaskets at no additional cost to the Owner. The washers and gaskets shall be the following model numbers:

5/8" Meters

- Meter Setter Gasket – 5/8" X 1/8" Rubber Meter Washer
- Meter Yoke Gasket – GT112 Rubber Yoke end Gasket
- Meter Wheel Flat Gasket – GT210 5/8" EC-1 Flat Gasket
- Meter Wheel Bevel – GT32 5/8" Beveled Washer

1" Meters

- Meter Setter Gasket – 1" X 1/8" THK Rubber Meter Washer
- Meter Yoke Gasket – GT123 Rubber Yoke End Gasket
- Meter Wheel Bevel – GT34 Beveled Gasket
- Meter Wheel Flat Gasket – GT211 Gasket

8. UNABLE TO INSTALL NEW METER. At locations where the meter box has been destroyed, is in poor condition or the contractor is unable to install a new meter the contractor shall not install a new meter. The location will be turned into the City Representative on a daily basis. If the service is galvanized iron, treat as an un-installable meter. If the new meter will not fit in to the existing meter box, the Contractor shall notify the City of the location and provide a brief description of the issue encountered. If the sole reason the new meter will not fit in the existing meter box is vertical clearance between the top of the existing meter assembly and the bottom of the meter box lid, the Contractor shall

adjust the water service or raise existing meter box upwards per the specifications and provide supports to the meter box. Supports shall include at least one brick placed at each corner of the meter box. The adjustment of the height of the meter box shall be paid under the Meter Box Height Adjustment line item provided in the bid. No additional contract time will be granted based on meter lid height corrections or service adjustments.

9. VALVE OPERATIONS. The contractor shall exercise due caution in operating valves in replacing the existing meters. Closing or opening valves quickly could potentially cause blockages in water service. The contractor shall be responsible for correcting any blockages that are a result of the meter replacement. All costs correcting blockages shall be borne by the contractor.
10. CONTRACTOR REPONISBILITIES. The contractor shall upon completion of each installation inspect the meter and fittings to ensure no leaks or damage to the service connection has occurred as a result of the meter replacement. The contractor shall follow all established procedures as outlined in training. The contractor shall ensure the new meter is performing correctly and is broadcasting its signal. The Contractor shall bring all required tools and materials to each meter replacement site, additional time will not be granted for delays due to missing, delayed or ineffective equipment, materials and tools.
11. METER SERIAL NUMBERS. Prior to installation the contractor shall provide the City a digital file, provided by the manufacturer, of the meter type and serial number of all meters to be installed. The file shall be in an ASCII format provided by the City.
12. DAILY INFORMATION. All information the contractor is required to turn in on a daily basis shall be turned into the City at the start of the business on the following day. Work performed on a Saturday shall be turned in on the following Monday. The monthly total report us due with each monthly pay application.
13. SATURDAY WORK. The contractor may work on Saturdays. The contractor must give the City 72 hours notice if the contractor intends to perform work on a Saturday. The contractor must give immediate notice to the City if the contractor cancels work scheduled for a Saturday.
14. STORAGE. The City will provide space at the Public Works Operations Center for storage of new meters provided by manufacturer to the contractor. The contractor is responsible for providing a lockable container the new meters will be stored in. The City is not responsible for the security of any meters stored at the facility.
15. NO METER AT SERVICE. If the contractor encounters a service that does not have an existing meter the contractor shall NOT install a new meter. These locations shall be logged and turned into the Engineer on a daily basis.
16. EQUIPMENT PURCHASE ALLOWANCE. The contractor shall purchase equipment requested as by the City, and shall request reimbursement for said equipment from the Equipment Purchase Allowance. Only equipment requested in writing from the City is eligible for reimbursement from the Equipment Allowance. Reimbursement shall include the cost of material purchase, tax, shipping and handling and warranties as requested. The

Contractor is not permitted to mark up said equipment for the Contractor's overhead, profit, insurance or bonding. The contractor is permitted to mark up the cost of the equipment purchase up to 5% to accommodate capital outlay costs.

The Equipment Allowance shall not be used to purchase meters, expansion wheels, gaskets, fittings or any other such appurtenance. These materials are to be included in the meter replacement cost per the Specifications section of the Contract.

17. FUNCTIONALITY OF METER AND SYSTEM ASSURED. Before payment will be issued for ANY meter replacement OR equipment delivered, the functionality of meter or equipment must be verified by field testing. The meter will be placed in a test route in the City's ARB N-Site software and a WSM representative will go into the field and verify that the meter is broadcasting and that the reading is captured. The Trimble units will be tested in the same manner. The final product must perform as designed.
18. RESTORATION OF SERVICE AND/OR REPAIR WORK. If City personnel must respond to a house without water service due to the Contractor not restoring water service to the house after replacing the meter, the Contractor shall be charged \$50/occurrence for such an incident. If the Contractor damages City property and the City performs repairs, the Contractor shall be charged the full cost of the repair. If the Contractor damages private property, the Contractor must either effect repairs immediately or pay for such repairs to be performed.
19. METER REPLACEMENT LOCATIONS. The Contractor shall replace water meters in areas shown in Appendix C – Meter Replacement Districts. Once all meters have been replaced in the areas shown in Appendix C, the Contractor shall replace meters where directed by the City.
20. METER BOX HEIGHT ADJUSTMENT. The Contractor shall raise existing meter box lids to accommodate the vertical height of the new meters. This line item applies only to boxes outside of paved areas, and does not include re-grading or re-seeding the area around the meter box. Meter box height adjustments shall be made at the direction of the City.

The Contractor shall raise the meter box lid to a height such that there is at least 8-10" from the bottom of the meter box lid to the top of the angle valve. The meter box lid and service shall each be level after adjustment.

21. METER ANTENNA: The meters required in the Specifications section of this Contract are supplied with an extended antenna with transmitting disk. The Contractor is directed to attach the extended antenna to the meter register and place the antenna and disk in the customer's meter box. The Contractor is not required to attach the transmitting disk to the meter box lid or to core a hole to accommodate the antenna in the meter box lid.

CONTRACT FOR THE PHASE IV RESIDENTIAL METER
REPLACEMENT PROJECT (MR-10)

This contract is made and entered into as of the 22nd _____, by the City of Durham (“City”) and _____ (“Contractor”) a State of _____ corporation authorized to conduct business in the State of North Carolina.

Sec. 1. Background and Purpose. The City of Durham Department of Water Management is upgrading its existing residential flow meter system to permit automated meter reading. To facilitate this upgrade, the existing residential flow monitors must be replaced with meters capable of sending flow meter data wirelessly. The contract is the third phase of the City’s system-wide effort to complete this upgrade.

Sec. 2. Services and Scope to be Performed. Presumption that Duty is Contractor’s. The Contractor shall replace the residential water meters in pursuant to the terms of the this contract and the requirements and specifications attached to this contract. The Contractor shall perform the work in the quantities and for the unit prices contained in its bid form submitted by the Contractor and attached hereto titled, “Proposal for Contract MR-10 Residential Meter Replacement Phase IV” (“Bid Form”). In this contract, “Work” means the services that the Contractor is required to perform pursuant to this contract and all of the Contractor’s duties to the City that arise out of this contract. Unless the context requires otherwise, if this contract states that a task is to be performed or that a duty is owed, it shall be presumed that the task or duty is the obligation of the Contractor.

Sec. 3. Complete Work without Extra Cost. Except to the extent otherwise specifically stated in this contract, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

Sec. 4. Contractor’s Billings to City. Compensation. The Contractor shall send invoices to the City on a monthly basis for the amounts to be paid pursuant to this contract. Each invoice shall document, to the reasonable satisfaction of the City: the quantities of work completed any additional, all required meter data including GIS points and any information as may be reasonably requested by the City. Payment for each partial invoice shall be made or approximately the 20th of each month.

The City shall pay the Contractor up to \$ _____ for the Work in accordance with the unit prices contained in the Bid Form for Work performed. The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

Sec. 5. Prompt Payment to Subcontractors. (a) Within 7 days of receipt by the Contractor of each payment from the City under this contract, the Contractor shall pay all Subcontractors (which term includes subconsultants and suppliers) based on work completed or service provided under the subcontract. Should any payment to the Subcontractor be delayed by more than 7 days after receipt of payment by the Contractor from the City under this contract, the Contractor shall pay the Subcontractor interest, beginning on the 8th day, at the rate of 1% per month or fraction thereof on such unpaid balance as may be due. By appropriate litigation, Subcontractors shall have the right to enforce this subsection (a) directly against the Contractor, but not against the City of Durham.

(b) If the individual assigned to administer this contract for the City (in this section, titled “Prompt Payment to Subcontractors,” he or she will be referred to as the “Project Manager”) determines that it is appropriate to enforce subsection (a) in this manner, the City may withhold from progress or final payments to the Contractor the sums estimated by the Project Manager to be

- (i) the amount of interest due to the Subcontractor under subsection (a), and/or
- (ii) the amounts past-due under subsection (a) to the Subcontractor but not exceeding 5% of the payment(s) due from the City to the Contractor.

This subsection (b) does not limit any other rights to withhold payments that the City may have.

(c) Nothing in this section (titled "Prompt Payment to Subcontractors") shall prevent the Contractor at the time of invoicing, application, and certification to the City from withholding invoicing, application, and certification to the City for payment to the Subcontractor for unsatisfactory job progress; defective goods, services, or construction not remedied; disputed work; third-party claims filed or reasonable evidence that such a claim will be filed; failure of the subcontractor to make timely payments for labor, equipment, and materials; damage to the Contractor or another subcontractor; reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed 10%.

(d) The Project Manager may require, as a prerequisite to making progress or final payments, that the Contractor provide statements from any Subcontractors designated by the Project Manager regarding the status of their accounts with the Contractor. The statements shall be in such format as the Project Manager reasonably requires, including notarization if so specified.

Sec. 6. Insurance.

Commercial General Liability, covering

- premises/operations
- products/completed operations
- broad form property damage
- explosion, collapse, and underground hazards if the hazards exist in the performance of this contract
- contractual liability
- independent contractors, if any are used in the performance of this contract
- City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the GL section of the certificate, in lieu of an original endorsement)
- combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year

Automobile Liability Insurance, covering

- owned, hired, or borrowed vehicles
- employee vehicles, if used in performance of this contract
- combined single limit not less than \$1,000,000 per occurrence
- City of Durham must be named additional insured, and an original of the endorsement to effect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the GL section of the certificate, in lieu of an original endorsement)

Workers' Compensation Insurance, covering

- statutory benefits;
- covering employees; covering owners partners, officers, and relatives (who work on this contract)
- employers' liability, \$1,000,000
- Waiver of subrogation in favor of the City of Durham

Insurance shall be provided by:

- companies authorized to do business in the State of North Carolina
- companies with Best rating of A-VIII or better.

Insurance shall be evidenced by a certificate:

- providing notice to the City of not less than 30 days prior to cancellation or reduction of coverage
- certificates shall be addressed to:
 - City of Durham, North Carolina
 - Department of Water Management
 - Attention: Bryant Green, PE
 - 101 City Hall Plaza
 - Durham, NC 27701
- both the insurance certificate and the additional insured endorsement must be originals and must be approved by the City's Risk Manager before Contractor can begin any work under this contract.

Sec. 7. Performance of Work by City. If the Contractor fails to perform the Work in accordance with the schedule referred to in section 2 above, the City may, in its discretion, in order to bring the project closer to the schedule, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Contractor notice of its intention. The Contractor shall reimburse the City for additional costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

Sec. 8. Attachments. The following attachments are made a part of this contract: Advertisement for Bids, General Instructions to Bidders, Special Requirements for Bidders, Proposal (including Bid Form, all affidavits and bonds), SDBE Requirements, Specifications, Appendix A – SDBE Reporting Forms, Appendix B – Sales Tax Forms, Appendix C – Proposed Meter Replacement Locations.

Sec. 9. Notice. (a) All notices and other communications required or permitted by this contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:
 Donald Greeley
 Department of Water Management
 City of Durham
 101 City Hall Plaza
 Durham, NC 27701
 The fax number is (919) 560-4479.

To the Contractor:
 XXXXXXXXXXXX
 XXXXXXXXXXXX
 XXXXXXXXXXXX

(b) Change of Address. Date Notice Deemed Given. A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this contract shall be deemed given at the time of actual delivery, if

it is personally delivered or sent by fax. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

Sec. 10. Indemnification. (a) To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection "a," the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City. (b) Definitions. As used in subsections "a" above and "c" below -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract). "Indemnitees" means City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor. (c) Other Provisions Separate. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract. (d) Survival. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract. (e) Limitations of the Contractor's Obligation. If this section is in, or is in connection with, a contract relative to the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, then subsection "a" above shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

Sec. 11. Miscellaneous

(a) Choice of Law and Forum. This contract shall be deemed made in Durham County, North Carolina. This contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to federal court. This subsection (a) shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

(b) Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) Performance of Government Functions. Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) Severability. If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

(e) Assignment, Successors and Assigns. Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to

payment) or duties that arise out of this contract. The City Manager may consent to an assignment without action by the City Council. Unless the City otherwise agrees in writing, the Contractor and all assignees shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this contract and all of the City's claims that arise out of this contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(f) Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law.

(g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

(h) EEO Provisions. During the performance of this Contract the Contractor agrees as follows: (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Contractor shall in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. (3) The Contractor shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding. (4) In the event of the Contractor's noncompliance with these EEO provisions, the City may cancel, terminate, or suspend this contract, in whole or in part, and the City may declare the Contractor ineligible for further City contracts. (5) Unless exempted by the City Council of the City of Durham, the Contractor shall include these EEO provisions in every purchase order for goods to be used in performing this contract and in every subcontract related to this contract so that these EEO provisions will be binding upon such subcontractors and vendors.

(i) SDBE. The Contractor shall comply with all applicable provisions of Article III or Chapter 18 of the Durham City Code (Equal Business Opportunities Ordinance), as amended from time to time. The failure of the Contractor to comply with that article shall be a material breach of contract which may result in the rescission or termination of this contract and/or other appropriate remedies in accordance with the provisions of that article, this contract, and State law. The Participation Plan submitted in accordance with that chapter is binding on the Contractor. Section 18-59(f) of that article provides, in part, "If the City Manager determines that the Contractor has failed to comply with the provisions of the Contract, the City Manager shall notify the Contractor in writing of the deficiencies. The Contractor shall have 14 days, or such time as specified in the Contract, to cure the deficiencies or establish that there are no deficiencies." It is stipulated and agreed that those two quoted sentences apply only to the Contractor's alleged violations of its obligations under Article III of Chapter 18 and not to the Contractor's alleged violations of other obligations.

(j) No Third Party Rights Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

(k) Principles of Interpretation and Definitions. In this contract, unless the context requires otherwise: (1) The singular includes the plural and the plural the singular. The pronouns “it” and “its” include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words “include,” “including,” etc. mean include, including, etc. without limitation. (2) References to a “Section” or “section” shall mean a section of this contract. (3) “Contract” and “Agreement,” whether or not capitalized, refer to this instrument. (4) Titles of sections, paragraphs, and articles are for convenience only, and shall not be construed to affect the meaning of this contract. (5) “Duties” includes obligations. (6) The word “person” includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (7) The word “shall” is mandatory. (8) The word “day” means calendar day.

(l) Modifications. Entire Agreement. A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or a deputy or assistant City Manager signs it for the City. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

(m) City’s Manager’s Authority. To the extent, if any, the City has the power to suspend or terminate this contract or the Contractor’s services under this contract, that power may be exercised by City Manager or a deputy or assistant City Manager without City Council action.

Sec. 12. Termination for Convenience (“TFC”). (a) *Procedure.* Without limiting any party’s right to terminate for breach, the City may, without cause, and in its discretion, terminate this contract for convenience by giving the Contractor written notice that refers to this section. TFC shall be effective at the time indicated in the notice. (b) *Obligations.* Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions shall remain in force. At the time of TFC or as soon afterwards as is practical, the Contractor shall give the City all Work, including partly completed Work. In case of TFC, the Contractor shall follow the City’s instructions as to which subcontracts to terminate. (c) *Payment.* The City shall pay the Contractor an equitable amount for the costs and charges that accrue because of the City’s decisions with respect to the subcontracts, but excluding profit for the Contractor. Within 20 days after TFC, the City shall pay the Contractor a one hundred dollar TFC fee and pay the Contractor for all Work performed except to the extent previously paid for. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump-sum basis, the City shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The Contractor shall not be entitled to any payment because of TFC except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Sec. 13. Liquidated Damages

(a) Contractor and the City of Durham recognize that time is of the essence of this Agreement and that the City of Durham will suffer financial loss if the Work is not completed within 365 calendar days, plus any extensions thereof allowed by approved change order. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the City of Durham if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Durham and the Contractor

agree that as liquidated damages for the delay (but not as a penalty), Contractor shall pay the City of Durham [two hundred (\$200.00)] for each day that expires after the time specified above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by the City of Durham, Contractor shall pay the City of Durham two hundred (\$200.00) for each day that expires after the time specified above for completion and readiness for final payment until the Work is completed and ready for final payment.

(b) Failure of the Contractor to commence construction within ten (10) days of the Notice to Proceed shall begin a daily penalty to the Contractor at a rate of fifty percent (50%) of the daily liquidated damages specified above.

IN WITNESS WHEREOF, the City and the Contractor have caused this contract to be executed under seal themselves or by their respective duly authorized agents or officers.

Attest:

Secretary
(Affix Corporate Seal)

Attest:

CITY OF DURHAM

Pre Audit Certificate

* * * * *

KNOW ALL PERSONS BY THESE PRESENTS, That we, the PRINCIPAL AND SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, numbered as shown above and hereto attached:

NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue. As used hereinabove, "modifications" shall include, without limitation, changes (including, without limitation, changes granting extensions of time) and additions to or with respect to the work, scope of work, and specifications.

* * * * *

The Performance Bond and the Payment Bond are being combined here only for purposes of convenience in signing and acknowledging, and the obligations of the Principal and of the Surety are the same as if the bonds were on separate documents. Each bond is in the dollar amount stated above, and the amounts of these bonds are not combined. The Surety agrees that both of these bonds are fully binding on it whether or not the Principal executes these bonds. These bonds are given pursuant to Article 3 of Chapter 44A of the N. C. General Statutes.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument (for both the Performance Bond and the Payment Bond) under their several seals on the date of execution indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

By: _____
Manager of Principal

[Surety's execution]

(name of Surety)

(signature of attorney in fact)
(Affix Surety's corporate seal.)

(Instructions to Surety and Principal: If you use a raised corporate seal, press hard enough to make it legible.)

ACKNOWLEDGEMENT OF CONTRACTOR'S EXECUTION OF CONTRACT,
PERFORMANCE BOND AND PAYMENT BOND

State of _____ County of _____

I, _____, a notary public for the aforesaid county and state, certify that _____ personally appeared before me this day, and acknowledged that he or she is _____ Secretary of _____, a corporation, and that by authority duly given and as the act of the corporation, the foregoing (1) Contract with the City of Durham and (2) Performance Bond and Payment Bond with respect to the Contract, were signed in its name by its _____ President, whose name is _____, sealed with its corporate seal, and attested by him/herself as its said Secretary or Assistant Secretary.

This the ____ day of _____, _____.

NOTARY PUBLIC

My commission expires: _____

ACKNOWLEDGEMENT OF SURETY'S EXECUTION OF
PERFORMANCE BOND AND PAYMENT BOND

State of _____ County of _____

I, _____, a Notary Public for said county and state, certify that _____, personally appeared before me this day and acknowledged that he or she is Attorney in Fact for _____, the Surety named in the foregoing Performance Bond and Payment Bond, in both of which bonds the contracting body is the City of Durham, and that he or she executed said bonds, under the seal of said Surety, on behalf of said Surety.

This the ____ day of _____, _____.

NOTARY PUBLIC

My commission expires: _____

(ATTACH CERTIFICATES OF INSURANCE)

(POWER OF ATTORNEY TO BE ATTACHED)

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

This _____ day of _____, 20_____.

FINANCE OFFICER, CITY OF DURHAM

NON-COLLUSION STATEMENT BY CONTRACTOR

The City of Durham prohibits collusion, which is defined as a secret agreement for a deceitful or fraudulent purpose.

I, _____ affirm that I have not engaged in collusion with any City employee(s), other person, corporations or firms relating to this bid, proposals or quotations. I understand collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

Signature of Contractor _____

APPENDIX A

SDBE Reporting Forms

**CITY OF DURHAM
SUBCONTRACTOR MONTHLY RECORD OF PAYMENT REPORT
(Please Type or Print Legibly)**

| | |
|---|---|
| THIS DOCUMENT MUST REFLECT ALL SUBCONTRACTORS & MUST BE SUBMITTED WITH MONTHLY INVOICE FOR PAYMENT | |
| PROJECT NAME: CONTRACT#: | DATE FORM SUBMITTED: WORK PERIOD ENDING: |
| COMPANY NAME: | ADDRESS: |
| FEDERAL TAX ID#: | CONTACT PERSON: |

| Subcontractor Name City of Durham Vendor ID# and Federal Tax ID # (Street Address/Zip/Telephone) | Indicate Ownership Status | Description Of Work | Total Sub- Contract Amount | Amount Paid For The Period | Total Amount Paid To-Date | Percentage Of Work Completed | Scheduled Start Date | Scheduled End Date |
|---|---------------------------------|---------------------|-------------------------------------|-------------------------------------|--|---------------------------------------|----------------------------|--------------------------|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total M/SDBE Subcontracts Awarded/% | | | \$ | % | Total W/SDBE Subcontracts Awarded/% | \$ | | % |
| Total M/SDBE Dollars Paid-To-Date/% | | | \$ | % | Total W/SDBE Dollars Paid-To-Date/% | \$ | | % |
| Total Non-Minority Subcontracts Awarded/% | | | \$ | % | Total Non-W/SDBE Subcontracts Awarded/% | \$ | | % |
| Total Non-Minority Dollars Paid-To-Date/% | | | \$ | % | Total Non W/SDBE Dollars Paid-To-Date/% | \$ | | % |

The undersigned certifies that the information recorded above is correct, and that each of the representations set forth above is true. The undersigned further acknowledges that any misrepresentation hereon may result in termination of contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

Company Representative _____ Title: _____ Date: _____

Reimbursable Sales and Use Tax Statement, Continuation page

| 1. Type of property purchased * | 2. Date property purchased | 3. Name of vendor | 4. Invoice number | 5. Date of invoice | 6. N. C. county in which purchased. ** | 7. Amount of State sales and use taxes paid | 8. Amount of local sales and use taxes paid | 9. Total of columns 7 & 8 |
|---------------------------------|----------------------------|-------------------|-------------------|--------------------|--|--|--|---------------------------|
| | | | | | | | | |

Enter totals of columns 7, 8, and 9, added to totals from all pages, into page 1. This page is used whether page 1 is signed by the Contractor or the Subcontractor.
022304RW

Reimbursable Sales and Use Tax Statement by Subcontractor

This line is to be completed by the Contractor: **Payment Application No.** _____ **Estimate No.** _____

Name of Contractor: _____ **Name of Subcontractor** _____

Project: _____

| 1. Type of property purchased * | 2. Date property purchased | 3. Name of vendor | 4. Invoice number | 5. Date of invoice | 6. N. C. county in which purchased.** | 7. Amount of State sales and use taxes paid | 8. Amount of local sales and use taxes paid | 9. Total of columns 7 & 8 |
|--|----------------------------|-------------------|-------------------|--------------------|---------------------------------------|---|---|---------------------------|
| | | | | | | | | |
| Grand totals of columns 7, 8, & 9 for all pages of this pay application/estimate.  | | | | | | | | |

Notes: * If the invoice clearly specifies the property for which tax reimbursement is being requested, you need not list the property on this form.

** In column 6, if not purchased in N. C., write *Not in N.C.*

Add extra pages as needed. Total number of pages, including this page, in this request: _____. **Do not include invoices in that page count. In addition to the pages referred to above, invoices that substantiate this statement are attached.**

CERTIFICATION: The undersigned individual certifies (1) he or she is an employee or principal of the Subcontractor that is submitting this form with the Contractor so that the Contractor may request reimbursement for N. C. State and local sales and use taxes that the Subcontractor has paid, (2) all of the properties listed above, and on all pages, if any, added to this page, and designated on the attached invoices, are building materials, supplies, fixtures, and equipment that have become or will become a part of or annexed to a building or structure that is owned or leased by the City of Durham and is being erected, altered, or repaired for use by the City of Durham in the project named above, (3) no tax on scaffolding, tools, equipment repair parts, equipment rentals, forms for concrete, or fuel to operate machinery or equipment is included, and (4) all of the information on this form, and on all pages, if any, added to this page, is true.

signature of individual

typed or printed name of individual

Sworn to and subscribed before me, this _____ day of _____, 20____.

My commission expires:

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Appendix C – Proposed Meter Replacement Locations