

**RESOLUTION APPROVING THE PREQUALIFICATION PROCESS FOR FIRST TIER
BIDDERS FOR THE DURHAM POLICE HEADQUARTERS PROJECT PURSUANT
TO G.S. 143-128.1(C)**

WHEREAS, the City and Construction Manager at Risk have jointly developed the prequalification assessment tool and criteria for the Durham Police Headquarters Project pursuant to G.S. 143-128.1(c); and

WHEREAS, the prequalification process complies with the requirements of G.S. 143-135.8;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DURHAM RESOLVES AND ADOPTS THE FOLLOWING PREQUALIFICATION PROCESS FOR THE FIRST TIER BIDDERS FOR THE DURHAM POLICE HEADQUARTERS PROJECT:

1. First tier bidders will complete the form titled "Subcontractor Prequalification – Durham Police Headquarters Project" (attached) which meets the criteria defined in G.S. 143-135.8 9(c)(1), (2), and (3).
2. The Construction Manager at Risk shall disclose to bidders the assessment criteria used for evaluating prequalified bidders pursuant to G.S. 143-135.8(c)(4). The assessment criteria shall take the form of the attached matrix titled "Durham Police Headquarters --Prequalification Ratings Matrix for First Tier Subcontractors". This document will be evaluated by the Construction Manager at Risk.
3. The Construction Manager at Risk shall provide for a process to allow a bidder to protest when it is denied prequalification consistent with G.S. 143-135.8(c)(5) and (6). This process shall be as follows:

Protest Procedure

The firm may appeal the denial of prequalification as noted below.

(A) Initial Protest – A firm denied prequalification may protest the Construction Manager at Risk's decision by filing a written appeal via hand-delivery or e-mail to the Construction Manager at Risk within three (3) business days of emailed notice that the firm has been denied prequalification. The written appeal shall clearly articulate the reasons why the firm is contesting the denial (i.e. explains how the firm satisfied all required criteria for prequalification in the solicitation in their initial response) and attach all documents supporting the firm's position. The Construction Manager at Risk may contact the firm regarding the information provided prior to ruling on the protest.

(B) Response to Protest -- The Construction Manager at Risk shall review the written protest within five (5) business days of receipt. If the Construction Manager at Risk is satisfied that the firm should be prequalified, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the

bid process. If the Construction Manager at Risk upholds its denial, the firm shall be notified in writing via e-mail.

(C) Appeal – Within three (3) business days of the Construction Manager at Risk’s emailed notice of the written protest decision, the denied prequalified firm may appeal the Construction Manager at Risk’s decision, in writing, via hand-delivery or e-mail, to the Construction Manager at Risk and the City of Durham designee. The Construction Manager at Risk and the City of Durham designee should jointly review the appeal within five (5) business days.

(D) Decision on Appeal – The joint decision of the Construction Manager at Risk and the City of Durham designee on the appeal shall be final, and the firm shall be promptly notified of the decision.

(E) General Rules for Protests and Appeals – Firms submitting prequalification applications shall be provided an e-mail address for the communication with the owner and/or Construction Manager at Risk during the protest and appeal process. The firm shall provide at least two e-mail addresses for use by the owner and/or Construction Manager at Risk in communicating with the firm. In the event the Construction Manager at Risk is unable to render a decision on either the initial protest or the appeal prior to the bid date, the firm shall be allowed to submit a bid on the project subject to a final decision on the protest or appeal. If the firm’s bid is opened prior to a final decision on the protest or appeal and the bid is not the lowest monetary bid for the project, the appeal shall be terminated and rendered moot. Bids received from firms who have been ruled disqualified to bid shall not be opened. A firm’s failure to comply with any requirements of the protest and appeals procedures of this section shall result in the firm’s protest or appeal being terminated and rendered moot.