



CITY OF DURHAM  
Department of Public Works  
101 City Hall Plaza | Durham, NC 27701  
919.560.4326 | F 919.560.4316  
  
www.durhamnc.gov

## **Request for Qualifications (RFQ) for Contract Administration and Construction Inspection Services**

**10. Date of RFQ:** February 9, 2015

**20. Project Manager and Contact with City; Questions about this RFQ.** Direct questions and concerns to:

Clint Blackburn, EI  
Project Manager  
Department of Public Works, Engineering Division  
101 City Hall Plaza, 3<sup>rd</sup> Floor  
Durham, NC 27701-3329  
(919)560-4326 ext 30245  
[clint.blackburn@durhamnc.gov](mailto:clint.blackburn@durhamnc.gov)

If you have concerns about this RFQ that you believe are not being addressed by the project manager, please contact:

Edward R. Venable, PE  
Contract Management Supervisor (mailing address same as above)  
(919)560-4326 ext 30233  
[ed.venable@durhamnc.gov](mailto:ed.venable@durhamnc.gov)

or

Tasha. N. Johnson, PE,  
Assistant Public Works Director for Engineering Services (mailing address same as above)  
(919)560-4326 ext 30262  
[tasha.johnson@durhamnc.gov](mailto:tasha.johnson@durhamnc.gov)

### **DESCRIPTION OF PROJECT AND NATURE OF RFQ**

**30. Project:** The project consists of the provision of professional services for construction contract administration, project management, construction inspections and observation for the demolition and reconstruction of sidewalk at various locations within the City of Durham. The City Contract name for this project is SW-38C 2015 Sidewalk Repair.

The project manual is available for download at the following web page.

<http://durhamnc.gov/ich/op/pwd/consproj/Pages/home.aspx>.

**40. Scope of Work:** The scope of work includes, but is not necessarily limited to, the following tasks;

- 1) **Contract Administration**- The consultant shall utilize the City's Oracle/Primavera centric contract management and scheduling software to administer all aspects of the construction contract between the City and the contractor, including but not limited to, the following work elements:
  - a. **Requests for Information (RFI)** – All RFI's will be submitted, reviewed and responded to by the consultant through the workflow in Oracle/Primavera Contract Manager (CM).
  - b. **Shop Drawing Submittals** – The consultant shall preload CM with a list of all of the shop drawings required for the project so that the contractor and consultant have a checklist for all of the required submittals. The consultant shall subsequently manage the shop drawings submittals (from the contractor) and reviews through the CM work flow processes. The consultant shall insure that the shop drawing submittals are reviewed in a timely manner in accordance with the construction documents and all relevant specifications.

- c. **Direct Testing Activities** – The consultant will ensure that the City’s material testing service provider performs the required tests for materials installed on the project. When necessary the consultant will inform NCDOT’s Independent Assurance Section personnel and/ or the Area Materials Engineer when operations and progress of the work allow key samples to be taken.
- d. **Preconstruction Meeting** – The consultant will hold a preconstruction meeting prior to the beginning of construction. Attendees will include the consultant, the contractor, subcontractors and City Staff. Representatives from NCDOT are to be invited for projects receiving federal funds. The meeting agendas and meeting minutes will be managed in CM.
- e. **Progress Meetings** – The consultant shall hold weekly progress meetings with the contractor and City staff. The meeting agendas and meeting minutes will be managed in CM.
- f. **Construction Observation and Inspection** – The consultant shall have a construction inspector onsite daily. The inspector must be NCDOT certified for projects receiving Federal Funds. The amount of time the inspector will need to be onsite will be dependent on the work being performed and weather conditions. On rainy days, as a minimum, the inspector will need to observe the performance of the erosion control devices. During warm dry weather the inspector may need to be onsite all day. The inspector is to be onsite at all times while work is being performed for federally funded projects. The construction inspector’s responsibility will be to observe and document all construction for subsequent certification that it meets NCDOT and City Standards, as well as approval of daily reports for payment quantities entered by the contractor (discussed below). The inspector will be responsible for summarizing the activities observed during the day in a CM daily report that follows the outline set forth in the NCDOT Construction Manual Records and Reports – Inspectors Daily Report.
- g. **Daily Quantity Reports** – The consultant shall be responsible for the verification and approval of payment quantities that the contractor submits into Primavera Daily Report Extender (PDRX) as daily quantity reports. The consultant shall monitor the installed quantities daily and alert City staff immediately of any quantities in excess of the estimates.
- h. **Supplemental Agreements** – The consultant will review all contractor claims for supplemental agreements (change orders) with City Staff and determine if the Supplemental Agreement is within the scope of the work and necessary to complete the project. For federally funded projects the consultant must obtain concurrence from NCDOT prior to executing the Supplemental Agreement.
- i. **Request for Extensions in Contract Time and Additional Compensation (claims)** – The consultant will process requests for time extensions and/ or additional compensation by the contractor per NCDOT guidelines on federally funded projects.
- j. **Payment Requisitions** - The consultant shall be responsible for the month-end process of approving final quantities for payment, making adjustments to the previously approved daily reports as needed, and creating the monthly payment requisitions in CM.
- k. **DBE Payments Reporting** – The contract will monitor monthly payment requisitions and ensure that the contractor is meeting DBE/ EOE goals. Consultant will obtain an explanation of any shortfall in achieving the goals from the contractor.
- l. **Punch lists** - The consultant shall create punch lists as necessary in CM for remedial work which needs to be performed by the contractor. The consultant shall monitor and report the contractor’s progress in completing punch list items.
- m. **Job Site and Work Zone Safety** – The construction inspector(s) onsite shall fully comply with the certification requirements of the “North Carolina Department of Transportation’s Implementation of the FHWA Final Rule on Safety & Mobility 23 CFR 630 Subparts J & K”. The inspectors will have the authority as an agent of the City to issue a stop work order whenever unsafe conditions are observed.
- n. **Conformance with NCDOT Encroachment Agreements** – When applicable, the consultant is responsible to insure that the work being performed is in accordance with the NCDOT encroachment agreements at all times.
- o. **Project Materials & Testing Requirements** – The consultant will ensure that the project has met NCDOT’s requirements for:
  - i. Sampling and testing
  - ii. Using Qualified technicians
  - iii. Fulfilling The FHWA “Buy America” Requirements and North Carolina State Law
  - iv. Using approved materials
  - v. Resolving any failures or discrepancies
- p. **Review and Approval of As-Built Submittals** – The contractor, as specified in the project manual and construction documents, is required to comply with Section 4 of the City’s reference Guide for Development with respect to as-built drawing and data requirements. The consultant shall be responsible for approving the as-built submittals by the contractor and insuring that they are in compliance with the City’s requirements.
- q. **Project Closeout** – The consultant shall prepare all project closeout documents and verify that the closeout requirements have been met. Projects with federal funds will follow the NCDOT’s closeout process for “Locally Administered Federally Funded Projects. Coordination with the materials testing consultant will be required.
- r. **Project Audit** - Should the project be subject to audit by City, State, or Federal agencies the Consultant will take the lead role in responding to the audit.

2) **Project Management and Scheduling**

- a. **Scheduling** - The contractor is responsible to create a comprehensive project construction schedule using the City's Oracle/Primavera P6 system. The contractor is expected to update the schedule as need be during the course of the project; some of the updates are performed automatically for the contractor through the PDRX software.
- b. **Daily Reports** - The consultant's construction inspections staff shall use the City's Primavera Contract Management (PCM) and Daily Reporting (PDRX) software to summarize the activities observed during the day in a PCM daily report and report his/her/their time spent each day in a PDRX daily report for time spent working on the project.
- c. **Visual Documentation** - The construction inspectors will be responsible for taking good quality and composition photographs daily that are representative of, and which also document, the work being performed. The photographs will be uploaded daily to a cloud based file service such as DropBox maintained by the consultant.

3) **Construction Standards Interpretation and Design Services**

- a. **Construction Standards Interpretation** – The consultant shall have a professional engineer, experienced in the construction of sidewalks, on staff, to assist with the interpretation of the intent of the construction standards if and when it becomes evident that there is an ambiguity, a conflict, or an error or omission; there may be other circumstances that necessitate analysis and interpretation.
- b. **Design Services** – The consultant shall have a professional engineer and support staff, experienced in the design and construction of sidewalks, on call to determine how to install PROWAG curb ramps and sidewalks into areas where the construction standards interpretation, described above, is insufficient to resolve an ambiguity, a conflict, or an error or omission. The staff available shall consist of, but not be limited to, a registered professional engineer and a registered professional land surveyor and technicians.

**50. Compensation Amount and Schedule:** The compensation amount will be negotiated with the first firm selected for the project as described in the Section of the RFQ titled Evaluation Criteria. If the compensation amount cannot be successfully negotiated with the first firm, then the City will begin compensation negotiations with the next firm in line, and so on.

**60. Definitions in this RFQ: City, RFQ, Qualification, Candidate, Contractor, Should.** Unless the context indicates otherwise – (a) The expressions "RFQ," "this RFQ," and "the RFQ" refer to this document as it may be amended or updated. (b) "City" and "city" mean the City of Durham. (c) The "qualification" is the response of a person, firm, or corporation proposing to provide the services sought by this RFQ. (d) The word "Candidate" or "candidate" is the person, firm, or corporation that submits a qualification or that is considering submitting a qualification. (e) The word "Contractor" or "contractor" is the person, firm, or corporation with which the City enters into a contract to provide the services sought by this RFQ. That is, "contractor" generally refers to a successful candidate that has obtained a fully executed contract with the City, while "candidate" is generally reserved to the stage before a contract has been signed. (f) The word "should" is used to tell candidates what the City thinks it wants and/or what the project manager thinks is best. Candidates that want to increase the likelihood of being selected will, in general, do what the RFQ says candidates "should" do, but failure to comply with all "shoulds" will not necessarily and automatically result in rejection.

**70. Contract.** The City anticipates that the conclusion of the RFQ process will be a contract between the City and the successful candidate under which the successful candidate will provide the goods and services generally described in this RFQ. It is the City's intention to use the contract that is attached as Exhibit A, modified and filled in to reflect the RFQ and the qualification. If a candidate objects to any of the contract, it should state the objections in its qualification.

**71. Equal Business Opportunity Program.** It is the policy of the City to provide equal opportunities for City contracting for small firms owned by socially and economically disadvantaged persons doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct present effects of past discrimination and to resolve complaints of discrimination.

While there are no SDBE participation goals for this project, in accordance with the Ordinance, all contractors are required to provide information requested in the "SDBE Professional Services Forms" package. **Proposals that do not contain the appropriate, completed "Professional Services Forms" will be deemed non-responsive and ineligible for consideration.** The "Declaration of Performance," "Participation Documentation," Managerial Profile," "Equal Employment Opportunity Statement" and the "Employee Breakdown" documents are required of all contractors. In lieu of "Employee Breakdown," contractors may submit a copy of the current EEO-1 form (corporate basis). Other forms in the package should be used as needed. The City of Durham SDBEP Professional Services Forms are attached as Exhibit B.

The Department of Equal Opportunity/Equity Assurance is responsible for the Equal Business Opportunity Program. All questions about "SDBE Professional Services Forms" should be referred to Deborah Giles or other department staff at (919) 560-4180.

**80. Trade Secrets and Confidentiality.** As a general rule, all submissions to the City are available to any member of the public. However, if materials qualify as provided in this section, the City will take reasonable steps to keep trade secrets confidential.

Definitions.

In this section (Trade Secrets and Confidentiality) –

The term “candidate” includes the candidate as contractor (that is, after it is a party to a contract with the City).

The term “trade secret” means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

The term “record” means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, received by the City of Durham in connection with the candidate’s qualification.

**(a) Designation of Confidential Records.** To the extent that the candidate wishes to maintain the confidentiality of trade secrets contained in materials provided to the City, the candidate shall prominently designate the material with the words “trade secrets” at the time of its initial disclosure to the City. The candidate shall not designate any material provided to the City as trade secrets unless the candidate has a reasonable and good-faith belief that the material contains a trade secret. When requested by the City, the candidate shall promptly disclose to the City the candidate’s reasoning for designating material as trade secrets; the candidate may need to label parts of that reasoning as trade secrets. In providing materials to the City, the candidate shall make reasonable efforts to separate those designated as trade secrets from those not so designated, both to facilitate the City’s use of the materials and to minimize the opportunity for accidental disclosure. For instance, if only a sentence or paragraph on a page is a trade secret, the page must be marked clearly to communicate that distinction. To avoid mistake or confusion, it is generally best to have only trade secret information on a page and nothing else on that page.

To the extent authorized by applicable state and federal law, the City shall maintain the confidentiality of records designated “trade secrets” in accordance with this section. Whenever the candidate ceases to have a good-faith belief that a particular record contains a trade secret, it shall promptly notify the City.

**(b) Request by Public for Access to Record.** When any person requests the City to provide access to a record designated as a trade secret in accordance with subsection (a) above, the City may

- (1) decline the request for access,
- (2) notify the candidate of the request and that the City has provided, or intends to provide, the person access to the record because applicable law requires that the access be granted, or
- (3) notify the candidate of the request and that the City intends to decline the request.

Before declining the request, the City may require the candidate to give further assurances so that the City can be certain that the candidate will comply with subsection (c) below.

**(c) Defense of City.** If the City declines the request for access to a record designated as trade secrets in accordance with subsection (a), then, in consideration of the promises in (b) above and for considering the candidate’s qualification, the candidate agrees that it shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of the City’s non-disclosure of the records. In providing that defense, the candidate shall at its sole expense defend Indemnitees with legal counsel. The legal counsel shall be limited to attorneys reasonably acceptable to the City Attorney.

Definitions. As used in this subsection (c), “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, fines, penalties, settlements, expenses, attorneys’ fees, and interest. “Indemnitees” means the City, and officers, officials, independent contractors, agents, and employees, of the City. “Indemnitees” does not include the candidate. The City may require the candidate to provide proof of the candidate’s ability to pay the amounts that may reasonably be expected to become monetary obligations of the candidate pursuant to this section. If the candidate fails to provide that proof in a timely manner, the City shall not be required to keep confidential the records whose non-disclosure gives rise to the potential monetary obligation. Nothing in this agreement shall require the City to require any person (including the City itself) to be placed in substantial risk of imprisonment, of being found by a court to be in contempt, or of being in violation of a court order. This subsection (c) is separate from and is to be construed separately from any other indemnification and warranty provisions in the contract between the City and the candidate.

**90. Bonds.** None required.

**100. Insurance.** Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following coverage's and limits. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract. All insurance companies must be authorized to do business in North Carolina and have no less than an A VIII rating or better.

- 1) **Commercial General Liability** – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.
- 2) **Automobile Liability** – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a City of Durham site
- 3) **Workers' Compensation & Employers Liability** – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with limits of no less than \$1,000,000 each accident, each employee and policy limit.
- 4) **Additional Insured** – Contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability. The Additional Insured shall read 'City of Durham as its interest may appear'.
- 5) **Certificate of Insurance** – Contractor agrees to provide City of Durham a Certificate of Insurance evidencing that all coverage's, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address should read:  
  
City of Durham  
Finance Department/Risk management  
City Hall Plaza, Annex  
Durham, NC 27701
- 6) **Umbrella or Excess Liability** – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

**110. Discretion of the City.**

- A. The City of Durham reserves the right to reject any or all qualifications submittals.
- B. NOTWITHSTANDING anything to the contrary in this document or in any addendums to this document, unless the contrary provision refers specifically to this provision, the City reserves the right (i) to negotiate changes of any nature with any candidate with respect to any term, condition, or provision in this document and/or in any qualifications, whether or not something is stated to be mandatory and whether or not it is said that a qualification will be rejected if certain information or documentation is not submitted with it, and (ii) to enter into an agreement for some or all of the work with one or more persons, firms, or corporations that do not submit qualifications. For example, all deadlines are for the administrative convenience or needs of the City and may be waived by the City in its discretion. This subparagraph B applies to the entire RFQ, including the SDBE portions.
- C. Where the City asks or tells candidates to do stated things, such as that a qualification should follow a stated format or that the candidate should do stated things in seeking the contract, the City may reject a qualification because it does not comply with those requests, so the candidate is adding to its risk of rejection by non-compliance. Still, the City may, in its discretion, waive non-compliance. This subsection (C) does not limit subsections (A) and (B).
- D. Of course, once a contract is signed, the parties to the contract may enforce the contract according to its terms as allowed by applicable law.

## SCHEDULE

**120. Schedule.** This schedule is the City's best estimate of the schedule that will be followed. If a component of this schedule is delayed, then it is reasonable to expect that the remainder of the schedule will be delayed by the same number of days.

- [a] Issue RFQ February 9, 2015.
- [b] Pre-submittal Conference, February 17, 2015 @ 2:30 PM – 3:30 PM, Conference Room 3B, 3<sup>rd</sup> Floor, Durham City Hall
- [c] Deadline of written questions after pre-submittal conference, February 19, 2015
- [c] Deadline for Qualification Statement Submittal, February 24, 2015
- [d] Shortlist firms provide presentations, all presentations complete by March 24, 2015
- [e] Contract negotiation, complete by April 7, 2015.
- [f] City Council Approval of Contract, May 18, 2015

**130. Keeping Qualifications Open.** All qualifications will remain open and valid for the City to accept for a period of 120 days after the deadline for submission of qualifications. The Project Manager may release candidates from this obligation by a written letter that specifically refers to this paragraph if he or she determines that the candidate and/or the qualification will not meet the City's needs.

**140. Deadline to Submit Qualifications.** Candidates should see that their qualifications are received at the following address by April 23, 2014 @ 3:00pm.

Department of Public Works, Engineering Services Division  
101 City Hall Plaza, 3<sup>rd</sup> Floor  
Durham, NC 27701-3329  
Attention: Clint Blackburn, EI

### GETTING MORE INFORMATION ON THE PROJECT AND RFQ PROCESS

**150. Questions.** Questions about the RFQ and the RFQ process should be submitted to the project manager identified at the beginning of this RFQ.

**160. Pre-submittal conferences, meetings, and site visits.** The City will conduct a pre-submittal conference on April 8, 2014 from 2:00 PM – 4:00 PM, Conference Room 3A, 3<sup>rd</sup> Floor, Durham City Hall; attendance is strongly recommended.

**170. Updates and revisions to RFQ.** If an amendment is issued, it will be provided to all who have registered with the City and signed for a copy of the RFQ. If you have supplied the Project Manager with your preferred method of contact (email, fax, etc.), updates to this RFQ ("addendums" or "addenda") will be sent to you in that manner. This RFQ and addendums are normally posted on the City's website, on the Public Works Division's Construction Projects webpage, at <http://durhamnc.gov/ich/op/pwd/consproj/Pages/home.aspx>.

**171. Questions Received Before Submittal Date** Any questions after the pre-submittal conference must be in writing and directed to the office noted in this RFQ. The deadline for these questions is April 15, 2014 @ 4:00pm.

### EVALUATION CRITERIA

**180. Evaluation Criteria.** The City will use an evaluation committee to evaluate all of the qualifications statements. The establishment of the committee is at the discretion of the City. The Evaluation Criteria as outlined in this RFQ are intended to be used to make a recommendation to the entity or individuals who will interview, negotiate and/or award the contract, but who is not bound to use these criteria or to award to a firm on the basis of the recommendation.

It is anticipated that applicants will be screened based on their proposals and evaluation criteria to develop a short list for further presentations and interviews. Firms that are selected for presentations are normally given 30 minutes to make their presentations with an additional 15 minutes for the selection committee to ask any questions that they may have. Upon completion of the interview process and evaluation of information provided at the presentation, the selection committee will perform an evaluation using the criteria noted in the below paragraphs.

Based on the evaluation rankings, the firm with the highest ranking will be selected with which further or final negotiations will be conducted; the top-rated firm will be requested to submit a detailed cost proposal. If the selected consultant fails to

negotiate a contract acceptable to the City in a timely fashion as determined by the City, negotiations may be terminated with top-rated firm and the City may begin negotiations with the next highest ranked responder. The City reserves the right to vary from this procedure as it determines to be in the City's interest

**190. Understanding of the Project— 20% of Total Score**

Qualifications will be evaluated against the questions set out below.

- (a) How well has the candidate demonstrated a thorough understanding of the purpose and scope of the project?
- (b) How well has the candidate identified issues and potential problems related to the project?
- (c) How well has the candidate demonstrated that it understands the deliverables the City expects it to provide?
- (d) How well has the candidate demonstrated that it understands the City's schedule and can meet it?
- (e) Adherence to the City's SDBE program.

**200. Methodology Used for the Project— 20% of Total Score**

Qualifications will be evaluated against the questions set out below.

- (a) How well does the methodology depict a logical approach to fulfilling the requirements of the RFQ?
- (b) How well does the methodology match and contribute to achieving the objectives set out in the RFQ?
- (c) How well does the methodology interface with the schedule in the RFQ?

**210. Management Plan for the Project— 20% of Total Score**

Qualifications will be evaluated against the questions set out below.

- (a) How well does the management plan support all of the project requirements and logically lead to the deliverables required in the RFQ?
- (b) How well is accountability completely and clearly defined?
- (c) Is the organization of the project team clear?
- (d) How well does the management plan illustrate the lines of authority and communication?
- (e) To what extent does the candidate already have the hardware, equipment, and licenses necessary to perform the contract?
- (f) Does it appear that the candidate can meet the schedule set out in the RFQ?
- (g) Has the candidate offered alternate deliverables and gone beyond the minimum tasks necessary to meet the objectives of the RFQ?
- (h) Is the qualification practical, feasible, and within budget?
- (i) How well have potential problems been identified?
- (j) Is the qualification responsive to all material requirements in the RFQ?

**220. Experience and Qualifications— 40% of Total Score**

Qualifications will be evaluated against the questions set out below.

*Questions regarding the personnel.*

- (a) Do the individuals assigned to the project have experience on similar projects?
- (b) Are resumes complete and do they demonstrate backgrounds that are desirable for individuals engaged in the work the project requires?
- (c) How extensive are the applicable education and experience of the personnel designated to work on the project?
- (d) How knowledgeable are the candidate's personnel of the local area and how many individuals have worked in the area previously?

*Questions regarding the candidate firm:*

- (e) How well has the candidate demonstrated experience in completing similar projects on time and within budget?
- (f) How successful is the general history of the candidate regarding timely and successful completion of projects?
- (g) Has the candidate provided letters of reference from clients?
- (h) How reasonable are the candidate's cost estimates?
- (i) If subcontractors will perform work on the contract, how well do they measure up to the evaluation used for the candidate?

**230. Contract Cost – Not applicable**

## CONTENTS OF QUALIFICATION

### 240. Contents of Qualification.

The qualification should include sections, numbered as follows:

1. **Contact information.** Include the candidate's name and address, and the contact information (name, mailing address, email address, fax number, and telephone number) of the person whom the City should contact regarding the qualification.
2. **Legal Status of the Candidate and Signers.** State the full, exact name of the candidate. State whether the candidate is an individual, corporation, limited partnership, general partnership, limited liability company, professional corporation, professional association, etc. If it is anything other than an individual or a general partnership, specify the State under which the entity is organized. If the State under which the entity is organized is not North Carolina, specify whether the candidate has received a certificate of authority from the N. C. Secretary of State to transact business in North Carolina. State whether the entity is in existence at the time the qualification is submitted, and if not, whether and when the candidate intends to officially form the entity. State the names and titles of the individuals who will sign the contract with the City.
3. **Qualifications, References, and Licenses.** This part should include the candidate's experience on similar projects and include references and how to contact them. In addition, this part should list the candidate's current licenses that are pertinent to this project.
4. **Project Team, Location of Work, and Subcontracting.** State the names and qualifications of the individuals who will have responsibility for this project.
5. **Methods and Procedures.** The firm's selected for the short list shall be required to submit their projected hours for each curb extension in this contract. No projected hours or hourly rates are required for this submittal.
6. **Compensation.** See Section 50 **Compensation Amount and Schedule.** Not applicable.
7. **Assumptions regarding City of Durham Actions and Participation.** If your qualification assumes that the City will take certain actions, provide facilities, or do anything else, you should state these assumptions explicitly.
8. **Equal Business Opportunity Program.** It is the policy of the City to provide equal opportunities for City contracting for small firms owned by socially and economically disadvantaged persons doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct present effects of past discrimination and to resolve complaints of discrimination. This policy applies to all professional services categories.  
  
The goals are 1% M/SDBE and 1% W/SDBE for this project. In accordance with the Ordinance, all contractors are required to provide information requested in the "SDBE Professional Services Forms" package. It is the intention of the City that proposals that do not contain the appropriate, completed "Professional Services Forms" will be deemed non-responsive and ineligible for consideration and that the "Declaration of Performance," "Participation Documentation," Managerial Profile," "Equal Employment Opportunity Statement" and the "Employee Breakdown" documents are required of all contractors. In lieu of the "Employee Breakdown," contractors may submit a copy of the current EEO-1 form (corporate basis). The "Letter of Intent to Perform as a Sub-consultant/Subcontractor" must be completed for SDBEs proposed to perform on a contract. This form must be submitted with the proposal. The "SDBE Goals Not Met/Documentation of Good Faith Efforts" form must be submitted if the goals are not met. The "Post Proposal Submission SDBE Deviation" form is not applicable at this time.  
  
The Department of Equal Opportunity/Equity Assurance is responsible for the Equal Business Opportunity Program. All questions about "SDBE Professional Services Forms" should be referred to Deborah Giles or other department staff at (919) 560- 4180.
9. **Financial Condition, Insurance, and Bonds.** Not applicable.
10. **Conflict of Interest.** If the candidate has any grounds to believe there could be a conflict of interest, such as that a City employee who is involved in awarding the contract has a connection with the candidate, please explain.



11. **Non-collusion.** This RFQ constitutes an invitation to bid or propose. Sign the following and include it with your response:

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, qualifications 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: \_\_\_\_\_

**NON-COLLUSION AFFIDAVIT**

By executing this qualification, I certify that this qualification is submitted to the City of Durham competitively and without collusion. I am authorized to represent the candidate both in submitting this bid and in making this Non-collusion Affidavit. To the best of my knowledge and belief, (1) the candidate has not violated N. C. General Statute section 133-24 in connection with the qualification, (2) the candidate has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with its qualification, and (3) the candidate intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor. The neuter includes the masculine and the feminine. The candidate to which this Non-Collusion Affidavit refers is:

\_\_\_\_\_  
(insert name of candidate)

\_\_\_\_\_  
(signature of individual)

**ACKNOWLEDGMENT**

Type or print name of the individual who signed the affidavit:

\_\_\_\_\_  
Type or print the name of Notary Public signing this acknowledgment:

\_\_\_\_\_

Place where acknowledgment occurred: County of \_\_\_\_\_, State of \_\_\_\_\_

Notary's residence : County of \_\_\_\_\_, State of \_\_\_\_\_

I, the Notary Public named above, certify (1) the individual named above personally appeared before me this day, (2) I have personal knowledge, or satisfactory evidence, of the individual's identity; and (3) the individual acknowledged signing the foregoing affidavit.

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

Notary Public

My commission expires:  
\_\_\_\_\_

**COVER LETTER WITH QUALIFICATION**

**250. Cover letter.** The qualification should contain a cover letter, signed by a principal of the candidate. The cover letter should contain the following statement:

The undersigned, whose title and position with the candidate are stated next to or beneath his or her signature, has the authority to submit this qualification (including this cover letter) on behalf of the candidate in response to the City of Durham's Request for Qualifications.

Unless otherwise clearly stated in this response to the RFQ, our qualification accepts the terms and conditions stated in the RFQ, including the description of services to be performed and the provisions of the contract to be signed.

The cover letter should contain one of the following two paragraphs A or B. If (i) the cover letter lacks both paragraph A and paragraph B, or (ii) the cover letter contains paragraph A but fails to comply with the instructions in the section of the RFQ titled "Trade Secrets and Confidentiality," the City may treat everything it receives from the candidate as NOT trade secret or confidential, and the City may disclose to the public everything it receives from the candidate.

A. With respect to all trade secrets that the candidate may submit to the City in connection with this qualification or the contract, if the contract is awarded to the candidate, the candidate shall comply with the section of the RFQ titled "Trade Secrets and Confidentiality," including all of its subsections, including the subsection titled "Defense of City." The candidate acknowledges that the City will rely on the preceding sentence.

-or-

B. The candidate is not submitting any trade secrets to the City in connection with this qualification or the contract; if the contract is awarded to the candidate, the candidate will not submit any trade secrets to the City in connection with this qualification or the contract. The candidate acknowledges that the City will rely on the preceding sentence.

In addition, the cover letter should contain also one of the following two paragraphs A or B.

A. This qualification is an offer that cannot be revoked before 4:30 PM on the date 120 days from the submittal date. The City may allow the candidate to withdraw the offer by sending written withdrawal permission that refers specifically to this provision.

-or-

B. This qualification is not an offer, and the candidate retains the right to decline to enter into a contract with the City for this project.

**260. Addendums.** The cover letter should list the last addendum that the City issues for this RFQ, with a statement such as *The undersigned candidate has read all the addendums issued by the City for this RFQ, through and including Addendum No. \_\_\_\_.* In that blank the candidate should list the number of the last addendum.

## HOW TO SUBMIT A QUALIFICATION

### **270. How to submit a qualification.**

Candidates should submit their qualifications in a sealed envelope. The envelope should be addressed for delivery to the Project Manager at the address shown in the "Project Manager and Contact with City" section at the beginning of this RFQ.

Write the following prominently on the outside of the envelope: **Contract Administration and Construction Inspections Services for Duke Street & Gregson Street Curb Extensions.**

Qualifications are to be received no later than **Wednesday, April 23, 2014 @ 3:00 pm.**

**280. Format.** Each firm shall submit five (5) bound copies of their qualifications not to exceed 25 total pages excluding SDBE forms and resumes. Each firm shall also submit an electronic copy by either email or on a disk or flash drive.

**290. Alternative Qualifications.** Not Applicable.

**300. Candidate to Bear Expense; No Claims against City.** No candidate will have any claims or rights against the City arising out of the participation by a candidate in the qualification process. No candidate will have any claims or rights against the City for the City's failure to award a contract to it or for awarding a contract to another person, firm, or corporation, regardless of whether the other person, firm, or corporation participated in the RFQ process or did not submit a qualification that complied with the RFQ. A notice of award will not constitute acceptance by the City; the City's only method of acceptance is the City's execution of a formal contract in accordance with law.

**310. Privilege License.** Not applicable.

**320. Notice Under the Americans with Disabilities Act (ADA).** The City of Durham will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in the City program, service, or activity, should contact Ms. Stacey Poston, ADA Coordinator, voice 919-560-4197, fax 560-4196, TTY 919-560-1200, or Stacey.Poston@durhamnc.gov, as soon as possible but no later than 48 hours before the scheduled event.

**330. E-Verify Compliance.** The contract requires compliance by the contractor and its subcontractors with respect to the N.C. E-Verify law.

The contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). The City is relying on this E-Verify Compliance section in entering into this contract. The parties agree to this section only to the extent authorized by law. If this section is held to be unenforceable or invalid in whole or in part, it shall be deemed amended to the extent necessary to make this contract comply with NCGS 160A-20.1(b).

---- End of RFQ ---

# APPENDIX A



## **SMALL DISADVANTAGED BUSINESS ENTERPRISE (SDBE) REQUIREMENTS AND CONSTRUCTION FORMS**

**CONTRACT: SW-38**

THIS PAGE INTENTIONALLY LEFT BLANK

## CONTRACT FOR SW-38 2015 SIDEWALK REPAIRS

This contract is dated, made, and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City of Durham (“City”), a N. C. municipal corporation, and [name of firm] (“Contractor”), [Indicate type of entity, for instance:

Sec. 1. **Background and Purpose.** The project consists of the provision of professional services for construction contract administration, project management, construction inspections and observation for the demolition and reconstruction of sidewalk at various locations within the City of Durham. The City Contract name for this project is SW-38C 2015 Sidewalk Repair.

Sec. 2. **Services and Scope to be Performed. Presumption that Duty is Contractor’s.** The Contractor shall, but is not necessarily limited to, the following tasks:

(a) **Contract Administration-** The consultant shall utilize the City’s Oracle/Primavera centric contract management and scheduling software to administer all aspects of the construction contract between the City and the contractor, including but not limited to, the following work elements:

- i. **Requests for Information(RFI)** – All RFI’s will be submitted, reviewed and responded to by the consultant through the workflow in Oracle/Primavera Contract Manager (CM).
- ii. **Shop Drawing Submittals** – The consultant shall preload CM with a list of all of the shop drawings required for the project so that the contractor and consultant have a checklist for all of the required submittals. The consultant shall subsequently manage the shop drawings submittals (from the contractor) and reviews through the CM work flow processes. The consultant shall insure that the shop drawing submittals are reviewed in a timely manner in accordance with the construction documents and all relevant specifications.
- iii. **Direct Testing Activities** – The consultant will ensure that the City’s material testing service provider performs the required tests for materials installed on the project. When necessary the consultant will inform NCDOT’s Independent Assurance Section personnel and/ or the Area Materials Engineer when operations and progress of the work allow key samples to be taken.
- iv. **Preconstruction Meeting** – The consultant will hold a preconstruction meeting prior to the beginning of construction. Attendees will include the consultant, the contractor, subcontractors and City Staff. Representatives from NCDOT are to be invited for projects receiving federal funds. The meeting agendas and meeting minutes will be managed in CM.
- v. **Progress Meetings** – The consultant shall hold weekly progress meetings with the contractor and City staff. The meeting agendas and meeting minutes will be managed in CM.
- vi. **Construction Observation and Inspection** – The consultant shall have a construction inspector onsite daily. The inspector must be NCDOT certified for projects receiving Federal Funds. The amount of time the inspector will need to be onsite will be dependent on the work being performed and weather conditions. On rainy days, as a minimum, the inspector will need to observe the performance of the erosion control devices. During warm dry weather the inspector may need to be onsite all day. The inspector is to be onsite at all times while work is being performed for federally funded projects. The construction inspector’s responsibility will be to observe and document all construction for subsequent certification that it meets NCDOT and City Standards, as well as approval of daily reports for payment quantities entered by the contractor (discussed below). The inspector will be responsible for summarizing the activities observed during the day in a CM daily report that follows the outline set forth in the NCDOT Construction Manual Records and Reports – Inspectors Daily Report.
- vii. **Daily Quantity Reports** – The consultant shall be responsible for the verification and approval of payment quantities that the contractor submits into Primavera Daily Report Extender (PDRX) as daily quantity reports. The consultant shall monitor the installed quantities daily and alert City staff immediately of any quantities in excess of the estimates.
- viii. **Supplemental Agreements** – The consultant will review all contractor claims for supplemental agreements (change orders) with City Staff and determine if the Supplemental Agreement is within the scope of the work and necessary to complete the project. For federally funded projects the consultant must obtain concurrence from NCDOT prior to executing the Supplemental Agreement.
- ix. **Request for Extensions in Contract Time and Additional Compensation (claims)** – The consultant will process requests for time extensions and/ or additional compensation by the contractor per NCDOT guidelines on federally funded projects.
- x. **Payment Requisitions** – The consultant shall be responsible for the month-end process of approving final quantities for payment, making adjustments to the previously approved daily reports as needed, and creating the monthly payment requisitions in CM.
- xi. **DBE Payments Reporting** – The contract will monitor monthly payment requisitions and ensure that the contractor is meeting DBE/ EOE goals. Consultant will obtain an explanation of any shortfall in achieving the goals from the contractor.

- xii. **Punch lists** - The consultant shall create punch lists as necessary in CM for remedial work which needs to be performed by the contractor. The consultant shall monitor and report the contractor's progress in completing punch list items.
- xiii. **Job Site and Work Zone Safety** – The construction inspector(s) onsite shall fully comply with the certification requirements of the “North Carolina Department of Transportation’s Implementation of the FHWA Final Rule on Safety & Mobility 23 CFR 630 Subparts J & K”. The inspectors will have the authority as an agent of the City to issue a stop work order whenever unsafe conditions are observed.
- xiv. **Conformance with NCDOT Encroachment Agreements** – When applicable, the consultant is responsible to insure that the work being performed is in accordance with the NCDOT encroachment agreements at all times.
- xv. **Project Materials & Testing Requirements** – The consultant will ensure that the project has met NCDOT’s requirements for:
  - i. Sampling and testing
  - ii. Using Qualified technicians
  - iii. Fulfilling The FHWA “Buy America” Requirements and North Carolina State Law
  - iv. Using approved materials
  - v. Resolving any failures or discrepancies
- xvi. **Review and Approval of As-Built Submittals** – The contractor, as specified in the project manual and construction documents, is required to comply with Section 4 of the City’s reference Guide for Development with respect to as-built drawing and data requirements. The consultant shall be responsible for approving the as-built submittals by the contractor and insuring that they are in compliance with the City’s requirements.
- xvii. **Project Closeout** – The consultant shall prepare all project closeout documents and verify that the closeout requirements have been met. Projects with federal funds will follow the NCDOT’s closeout process for “Locally Administered Federally Funded Projects. Coordination with the materials testing consultant will be required.
- xviii. **Project Audit** - Should the project be subject to audit by City, State, or Federal agencies the Consultant will take the lead role in responding to the audit.

(b) **Project Management and Scheduling**

- i. **Scheduling** - The contractor is responsible to create a comprehensive project construction schedule using the City’s Oracle/Primavera P6 system. The contractor is expected to update the schedule as need be during the course of the project; some of the updates are performed automatically for the contractor through the PDRX software.
- ii. **Daily Reports** - The consultant’s construction inspections staff shall use the City’s Primavera Contract Management (PCM) and Daily Reporting (PDRX) software to summarize the activities observed during the day in a PCM daily report and report his/her/their time spent each day in a PDRX daily report for time spent working on the project.
- iii. **Visual Documentation** - The construction inspectors will be responsible for taking good quality and composition photographs daily that are representative of, and which also document, the work being performed. The photographs will be uploaded daily to a cloud based file service such as DropBox maintained by the consultant.

(c) **Construction Standards Interpretation and Design Services**

- i. **Construction Standards Interpretation** – The consultant shall have a professional engineer, experienced in the construction of sidewalks, on staff, to assist with the interpretation of the intent of the construction standards if and when it becomes evident that there is an ambiguity, a conflict, or an error or omission; there may be other circumstances that necessitate analysis and interpretation.
- ii. **Design Services** – The consultant shall have a professional engineer and support staff, experienced in the design and construction of sidewalks, on call to determine how to install PROWAG curb ramps and sidewalks into areas where the construction standards interpretation, described above, is insufficient to resolve an ambiguity, a conflict, or an error or omission. The staff available shall consist of, but not be limited to, a registered professional engineer and a registered professional land surveyor and technicians.

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. Compensation Amount and Schedule: The compensation amount will be negotiated with the first firm selected for the project as described in the Section of the RFQ titled Evaluation Criteria. If the compensation amount cannot be successfully negotiated with the first firm, then the City will begin compensation negotiations with the next firm in line, and so on.

(a) Upon award of the Contract, the Contractor will receive a Notice to Proceed to develop a comprehensive *P6* Schedule. Subsequent to completion and City approval of the *P6* Schedule, the Contractor will receive a Notice to Proceed for Design. No work shall commence without receiving the Notice to Proceed for Design from the City.

Prior to preparation of the *P6* Schedule, the Contractor shall provide a proposed Organization Breakdown Structure (OBS) and Work Breakdown Structure (WBS) to the City for review, comment, and approval. The WBS shall reflect each of the Contract pay items.

The WBS and overall project schedule in *P6* shall be linked to the Contract as established in Primavera *Contract Manager*. This link will allow for automatic updates of the project schedule as the work is completed and logged into Contract Manager. The Contractor is responsible for periodic updates to the *P6* Schedule as determined by the City at the time of the pre-construction meeting.

Sec. 4. 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. 5. Contractor's Billings to City. Compensation. The Contractor shall send invoices to the City on a monthly or bi-monthly basis for the amounts to be paid pursuant to this contract. Each invoice shall document, to the reasonable satisfaction of the City: such information as may be reasonably requested by the City. All payment requisition(s) shall be prepared using the *Primavera Contract Manager* software. Within 60 days after the City receives an invoice, the City shall send the Contractor a check in payment for all undisputed amounts contained in the invoice.

The City shall pay the Contractor for the Work as follows:

- (a) Surveying
  - (b) Design and Construction Plans
  - (c) Environmental Assessment
  - (d) Permits
  - (e) Right-of-Way Certification
- (These are suggested activities others may be added.)

The City shall not be obligated to pay the Contractor any payments, fees, expenses, or compensation other than those authorized by this section.

Sec. 6. 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 8<sup>th</sup> 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. 7. Insurance. Contractor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following coverage's and limits. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract. All insurance companies must be authorized to do business in North Carolina and have no less than an A VIII rating or better.

(a) Commercial General Liability – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

(b) Automobile Liability – Limits of no less than \$1,000,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Contract and/or are brought on a City of Durham site

(c) Workers' Compensation & Employers Liability – Contractor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with limits of no less than \$1,000,000 each accident, each employee and policy limit.

(d) Additional Insured – Contractor agrees to endorse the City as an Additional Insured on the Commercial General Liability. The Additional Insured shall read 'City of Durham as its interest may appear'.

(e) Certificate of Insurance – Contractor agrees to provide City of Durham a Certificate of Insurance evidencing that all coverage's, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Contractor's insurer. If Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address should read:

City of Durham  
Finance Department/Risk management  
City Hall Plaza, Annex  
Durham, NC 27701

(f) Umbrella or Excess Liability – Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies. Contractor agrees to endorse City of Raleigh as an 'Additional Insured' on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a 'Follow-Form' basis.

Sec. 8. Performance of Work by City. If the Contractor fails to perform the Work in accordance with the schedule referred to in section two 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. 9. Exhibits. The following exhibits are made a part of this contract: None

Sec. 10. 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, UPS, Federal Express, or certified United States mail, return receipt requested, addressed as follows. The parties are requested to send a copy by email.

To the City:

Clint Blackburn  
Public Works Department, Engineering Services Division  
City of Durham  
101 City Hall Plaza, 3<sup>rd</sup> Floor  
Durham, NC 27701-3329  
The fax number is (919)560-4316.  
Email: clint.blackburn@durhamnc.gov

To the Contractor:

[Insert name and address]

The fax number is \_\_\_\_\_.

Email:

(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 and sent 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. 11. 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. 12. E-Verify Compliance. The contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS). In this E-Verify Compliance section, "contractor," "its subcontractors," and "comply" shall have the meanings intended by NCGS 160A-20.1(b). The City is relying on this section in entering into this contract. The parties agree to this section only to the extent authorized by law. If this section is held to be unenforceable or invalid in whole or in part, it shall be deemed amended to the extent necessary to make this contract comply with NCGS 160A-20.1(b).

Sec. 13. Miscellaneous

(a) Choice of Law and Forum; Service of Process. (i) 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 subsection. (ii) If the Contractor is not a natural person (for instance, the Contractor is a corporation or limited liability company), this subsection (ii) applies. "Agent for Service of Process" means every person now or hereafter appointed by the Contractor to be served or to accept service of process in any State of the United States. Without excluding any other method of service authorized by law, the Contractor agrees that every Agent for Service of Process is designated as its non-exclusive agent for service of process, summons, and complaint. The Contractor will instruct each Agent for Service of Process that after such agent receives the process, summons, or complaint, such agent shall promptly send it to the Contractor. This subsection (ii) does not apply while the Contractor maintains a registered agent in North Carolina with the office of the N. C. Secretary of State and such registered agent can be found with due diligence at the registered office.

(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) Notice of 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 of 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 article 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. (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) "Duties" includes obligations. (5) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word "shall" is mandatory. (7) The word "day" means calendar day. (8) The word "Work" is defined in Section 2. (9) A definition in this contract will not apply to the extent the context requires otherwise.

(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 it is signed by the City Manager, a deputy or assistant City Manager, or, in limited circumstances, a City department director. 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. 14. Termination for Convenience ("TFC"). (a) *Procedure.* Without limiting any party's right to terminate for breach, the parties agree that 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 and the section of this contract titled Trade Secrets and Confidentiality, if any, 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 one hundred dollars as a TFC fee and shall 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. 15. Trade Secrets; Confidentiality. The request for proposals (RFP) section titled "Trade Secrets and Confidentiality" shall apply to any Trade Secrets disclosed to the City during the process leading to the parties' entering into this Contract (including all of the Contractor's responses to the RFP). This section (titled "Trade Secrets; Confidentiality") 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. For purposes of this contract, the word "candidate" in the RFP section just cited shall mean the "Contractor."

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:

CITY OF DURHAM

\_\_\_\_\_ By: \_\_\_\_\_

preaudit certificate, if applicable \_\_\_\_\_  
\_\_\_\_\_

FORM B [for a individual trading as]

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

[Type or print the individual's name]  
trading as [company name]

State of \_\_\_\_\_

INDIVIDUAL ACKNOWLEDGMENT with  
"trading as" provision

County of \_\_\_\_\_

I, a notary public in and for the aforesaid county and state, certify that

\_\_\_\_\_, trading as

\_\_\_\_\_, personally

appeared before me this day and acknowledged the execution, under seal, of the foregoing contract or agreement  
with the City of Durham. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_

Notary Public

FORM C [for a individual]

\_\_\_\_\_ (SEAL)  
[Type or print the individual's name]

---

State of \_\_\_\_\_

INDIVIDUAL ACKNOWLEDGMENT

County of \_\_\_\_\_

I, a notary public in and for the aforesaid county and state, certify that

\_\_\_\_\_ personally appeared before me this day and acknowledged the execution, under seal, of the foregoing contract or agreement with the City of Durham. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

FORM D [for a general or limited partnership]

[Type or print the contractor's name.]

By: \_\_\_\_\_ (SEAL)  
General Partner

State of \_\_\_\_\_

ACKNOWLEDGMENT BY  
PARTNERSHIP

County of \_\_\_\_\_

I, a notary public in and for said county and state, certify that \_\_\_\_\_  
\_\_\_\_\_ personally (1) appeared before me this day, (2) stated that he or she is a general partner in [City staff – Insert the name of the Contractor here] , a partnership, (3) acknowledged that the foregoing contract or agreement with the City of Durham carries on the partnership’s business in the usual way, and (4) acknowledged the due execution, under seal, of the contract or agreement on behalf of the partnership. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public



# APPENDIX B



## **SMALL DISADVANTAGED BUSINESS ENTERPRISE (SDBE) REQUIREMENTS AND CONSTRUCTION FORMS**

**CONTRACT: SW-38**

THIS PAGE INTENTIONALLY LEFT BLANK



# CITY OF DURHAM SMALL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

## PROFESSIONAL SERVICES FORMS

Revised 06/08



### Mailing Address:

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

### Street Address:

101 City Hall Plaza (Annex)  
Durham, North Carolina 27701

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

## **CITY OF DURHAM EQUAL BUSINESS OPPORTUNITY PROGRAM**

### **Policy Statement**

It is the policy of the City to provide equal opportunities for City contracting to small firms owned by socially and economically disadvantaged persons doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct the present effects of past discrimination and to resolve complaints of discrimination.

### **Goals**

To increase the dollar value of all City contracts for goods and services awarded to small disadvantaged business enterprises, it is a desire of the City that the contractor will voluntarily undertake efforts to increase the participation of socially and economically disadvantaged individuals at higher skill and responsibility levels within non-minority firms engaged in contracting and subcontracting with the City.

The Equal Opportunity/Equity Assurance Director shall establish project specific goals for each project or contract based upon the availability of small disadvantaged business enterprises (SDBE's) within the defined scope of work, delineated into percentages of the total value of the work.

## **Equal Business Opportunity Ordinance SDBE Participation Documentation**

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

**Declaration of Performance** must be completed and submitted with your proposal.

**SDBE Participation Documentation** must be used to document participation of Small Disadvantaged Business Enterprise (SDBE) on Professional Services projects. All SDBEs must be certified by the City of Durham's Equal Opportunity/Equity Assurance Department prior to submission date. If a business listed has not been certified, the amount of participation will be reduced from the total utilization.

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

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

**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.

**Letter of Intent to Perform as a Sub-consultant/Subcontractor** must be completed for SDBEs proposed to perform on a contract. This form must be submitted with the proposal.

### **Post Proposal Submission SDBE Deviation**

Post proposal submission SDBE deviation participation documentation must be used to report and deviation from SDBE participation either prior to or subsequent to startup of the project. The Equal Opportunity/Equity Assurance Department must be notified if the proposed sub-consultant/subcontractor is unable to perform and for what reasons. Substitutions of sub-consultants/subcontractor, both prior to and after awarding of a contract, are subject to City approval.

### **SDBE Goals Not Met/Documentation of Good Faith Efforts**

It is the responsibility of consultants/contractors to make good faith efforts. Good Faith Efforts means the sum total of efforts by a particular business to provide equitable participation of socially and economically disadvantaged employees and sub-consultants/subcontractors.

Whenever contract alternatives, amendments or extra work orders are made individually or in the aggregate, which increase the total value of the original contract, the consultant must make a good faith effort to increase SDBE participation such that the amounts subcontracted are consistent with the established goals.

**SELECTION OF CONSULTANTS/CONTRACTORS  
FOR ARCHITECTURAL/ENGINEERING  
AND OTHER PROFESSIONAL SERVICES**

**Goal**

The purpose is to provide Small Disadvantaged Businesses equal opportunities for participation on City of Durham contracts.

**Definition of the Scope of the Selection Policy**

The Equal Opportunity/Equity Assurance Director shall establish SDBE participation goals for each contract to be awarded by the City. Project specific goals for each project or contract will be based upon the availability of small disadvantaged business enterprises (SDBE's) within the defined scope of work, delineated into percentages of the total value of the work.

In addition to SDBE's specifically certified by the City and listed in a database maintained by the EO/EA Department, the City of Durham may consider a formal certification of another entity to determine whether an applicant meets requirements of the Equal Business Opportunity Program, provided that the City Manager or designee determines that the certification standards of such entity are comparable to those of the City. The City of Durham has determined that the following certifications are comparable to its own and may be used by bidders/proposers: North Carolina Department of Transportation (N.C. DOT), United States Small Business Administration (U.S. SBA) and Raleigh-Durham Airport Authority (RDU).

In lieu of SDBE's listed in its SDBE System, the City of Durham will accept women and minority firms certified by N.C. DOT, U.S. SBA and RDU as meeting its SDBE goal requirements provided the bidder/proposer submits evidence that the firm is currently certified by one of the stated entities at the time of bid/proposal. Failure to provide evidence of certification may disqualify the firm's participation for the purpose of meeting SDBE goals.

Any firm submitted in this manner will be contacted and urged to complete an abbreviated certification process with the City of Durham. For purposes of this document and associated forms, any reference to a "City Certified SDBE," an "SDBE certified by the City" or similar reference shall include reference to a qualified women or minority owned firm certified and approved in accordance with the above paragraphs, even where specific reference is made to the City SDBE database.

**Small Disadvantaged Business Proposal Requirements**

The prime consultant/contractor shall submit a proposal in accordance with the City of Durham's request for Proposal. In addition, the prime consultant/contractor must submit all required Professional Services SDBE Forms.

**Selection Committee for Professional Services**

A selection committee shall be established to be composed of the following: City Manager or a designated representative of this office; Director of Finance or a designated representative of this office; department head responsible for the project; City Engineer if engineering services are involved; the Equal Opportunity/Equity Assurance Director and Purchasing Manager. Other representatives shall be called upon as needed based on their areas of expertise.

The committee shall screen the proposals based on the following criteria:

1. Firms; interest in the project;
2. Current work in progress by firm;
3. Past experience with similar projects;
4. General proposal for carrying out the required work;
5. Designation of key personnel who will handle the project, with resume for each;
6. Proposed associate consultants/contractors, SDBE subconsultants;
7. Indication of capability for handling project;
8. Familiarity with the project;
9. Fees that have been charged for recent comparable projects;
10. References;
11. SDBE Participation; and
12. Documentation of Good Faith efforts.

After ranking the firms presenting proposals based on the above criteria, interviews will be conducted by the selection committee with the top ranked firms (3-5). The contracting department will make the final recommendation, prepare contracts for review by the City Attorney, and prepare the recommendation for the City Council including the following:

1. Description and scope of the project;
2. Recommended firm;
3. Contract cost;
4. Time limits;
5. Basis for selection;
6. Source for funding;
7. Equal Business Opportunity Ordinance compliance; and
8. Recommendation that the contract be approved by the City Council.

### **Contract Award**

A provision must be written in each contract with an architect or engineer requiring them to work with Equal Opportunity/Equity Assurance Department in creating and identifying separate work.

### **Project Evaluation**

An evaluation shall be made of each contract after its completion to be used in consideration of future professional services contracts. The evaluation shall cover appropriate items from the check list for ranking applicants. A copy of the evaluation shall be given to the consultant, and any comment he/she cares to make shall be included in the files.

**DECLARATION OF PERFORMANCE BY CONSULTANT/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 consultant/contractor certifies that: (check appropriate box)

- a)  It is the normal business practice of the consultant/contractor to perform all elements of the contract with its own workforce 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.
  
- c)  The vendor/contractor will use a subconsultant(s) in the fulfillment of this scope of work.

---

**Date**

**Authorized Signature**



**PARTICIPATION DOCUMENTATION  
(TO BE COMPLETED BY PRIME CONSULTANT/CONTRACTOR ONLY)**

**Names of all firms  
Project (including  
prime and  
subconsultants/sub-  
contractors)**

**Location**

**SDBE  
Firm  
Yes/No**

**Nature  
of  
Participation**

**% of Project  
Work**

Names of all firms Project (including prime and subconsultants/sub- contractors)	Location	SDBE Firm Yes/No	Nature of Participation	% of Project Work

**TOTAL** \_\_\_\_\_

\_\_\_\_\_  
**Name - Authorized Officer of Prime Consultant/Contractor Firm (Print/Type)**

\_\_\_\_\_  
**Signature - Authorized Officer of Prime Consultant/Contractor Firm**

\_\_\_\_\_  
**Date**

## 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 Equal Business Opportunity Ordinance.

### Managerial Employees

NAME	POSITION	SOCIALLY/ECONOMICALLY DISADVANTAGED* (YES/NO)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\* M-Minority(African American)    W-Woman    Other-H-Hispanic, AI-American Indian, AS-Asian American, Handicapped

**EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**  
(You may submit your organization's EEO policy in lieu of this sheet)

## EMPLOYEE BREAKDOWN

### Part A – Employee statistics for the primary location.

				M— a — l — e — s					F — e — m — a — l — e — s				
Employment category	Total employees	Total males	Total females	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project manager													
Professional													
Technical													
Clerical													
Labor													
Totals													

### Part B – Employee statistics for the consolidated company. *(See instructions for this form on whether this part is required.)*

				M— a — l — e — s					F — e — m — a — l — e — s				
Employment category	Total employees	Total males	Total females	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project manager													
Professional													
Technical													
Clerical													
Labor													
Totals													

**Letter of Intent to Perform as a Sub-Consultant**

The undersigned intends to perform work in connection with the above project as a SDBE:

Minority (African American)  Woman  Hispanic   
 American Indian  Asian American  Handicapped

The SDBE status of the undersigned is certified by the City of Durham as identified by the attached copy of certification or the attached SDBE Contractor Identification List supplied by the EO/EA Department.

The undersigned is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed):

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

<u>ITEMS</u>	<u>PROJECTED COMMENCEMENT DATE</u>	<u>PROJECTED COMPLETION DATE</u>

The consultant will subcontract \_\_\_\_\_% of the dollar value of this contract to a SDBE subconsultant/subcontractor and/or non-SDBE subconsultant/subcontractor.

The undersigned will enter into a formal agreement in the amount of \$ \_\_\_\_\_ for the above work with you, conditioned upon your execution of a contract with the City of Durham.

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Company \_\_\_\_\_ Telephone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Signature \_\_\_\_\_

**REQUEST TO CHANGE SDBE PARTICIPATION**

Project: \_\_\_\_\_

Name of bidder or consultant: \_\_\_\_\_

Name and title of representative bidder or consultant: \_\_\_\_\_

Address (including zip code): \_\_\_\_\_

Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

Total amount of original contract, before any change orders or amendments: \_\_\_\_\_

Total amount of the contract, including all approved change orders and amendments to date, but not counting the changes proposed in this form: \_\_\_\_\_

Dollar amount of changes proposed in this form: \_\_\_\_\_

The proposed change (*check one*)  **increases**  **decreases** the dollar amount of the bidder's/consultant's contract with the City.

Does the proposed change decrease the SDBE participation? (*check one*)  **yes**  **no**

If the answer is **yes**, complete the following:

**BOX A. For the subcontract proposed to be changed (increased, reduced, or eliminated):**

Name of subconsultant: \_\_\_\_\_

Goods and services to be provided before this proposed change: \_\_\_\_\_

Is it proposed to eliminate this subcontract?  yes  no

If the subcontract is to be increased or reduced, describe the nature of the change (*such as adding \$5,000 in environmental work and deleting \$7,000 in architectural*): \_\_\_\_\_

Dollar amount of this subcontract before this proposed change: \_\_\_\_\_

Dollar amount of this subcontract after this proposed change: \_\_\_\_\_

This subconsultant is (*check one*):

- 1. City-certified Black-owned SDBE
- 2. City-certified Women-owned SDBE
- 3. City-certified SDBE that is neither Black-owned nor women owned, but to be credited as
  - 3(a)  Black-owned SDBE
  - 3(b)  Women-owned SDBE
- 4. not a City-certified SDBE

**BOX B. Proposed subcontracts other than the subcontract described in Box A above**

Name of subcontractor for the new work: \_\_\_\_\_

Goods and services to be provided by this proposed subcontract: \_\_\_\_\_

Dollar amount proposed of this proposed subcontract: \_\_\_\_\_

This subcontractor is (*check one*):

- 1. City-certified Black-owned SDBE
- 2. City-certified women-owned SDBE
- 3. City-certified SDBE that is neither Black-owned nor women owned, but to be credited as
  - 3(a)  Black-owned SDBE
  - 3(b)  Women-owned SDBE
- 4. not a City-certified SDBE

*Add additional sheets as necessary.*

**SDBE GOALS NOT HAVING BEEN MET. The following information must be presented by the consultant concerning good faith efforts taken.**

It is the responsibility of consultants to make good faith efforts. Any act or omission by the City shall not relieve them of this responsibility. For future efforts, it shall be comprised of such efforts which are proposed to allow equitable participation of socially and economically disadvantaged employees and sub-consultants/subcontractors. The City Manager shall apply the following criteria, with due consideration of the quality, quantity, intensity and timeliness of efforts of consultants/contractors, in determining good faith efforts to engage SDBEs along with other criteria that the City Manager deems proper:

Name of Bidder: \_\_\_\_\_

*If you find it helpful, feel free to attach pages to explain your answers. **How many pages is your firm attaching to this questionnaire?** \_\_\_\_\_ (Don't count the 2 pages of this questionnaire.)*

***If a yes or no answer is not appropriate, please explain the facts. All of the answers to these questions relate only to the time before your firm submitted its bid or proposal to the City. In other words, actions that your firm took after it submitted the bid or proposal to the City cannot be mentioned or used in any answers.***

**1. SOLICITING SDBEs.**

- (a) Did your firm solicit, through all reasonable and available means, the interest of all SDBEs certified (that is, in the City's database) in the scope of work of the contract?  **yes**  **no**
- (b) In such soliciting, did your firm advertise?  **yes**  **no** Are you attaching copies to this questionnaire, indicating the dates and names of newspaper or other publication for each ad if that information is not already on the ads?  **yes**  **no**
- (c) In such soliciting, did your firm send written (including electronic) notices or letters? Are you attaching one or more sample notices or letters?  **yes**  **no**
- (d) Did your firm attend the pre-bid conference?  **yes**  **no**
- (e) Did your firm provide interested SDBEs with timely, adequate information about the plans, specifications, and requirements of the contract?  **yes**  **no**
- (f) Did your firm follow up with SDBEs that showed interest?  **yes**  **no**
- (g) With reference to the SDBEs that your firm notified of the type of work to be subcontracted, did your firm tell them:
  - (i) the specific work your firm was considering for subcontracting?  **yes**  **no**
  - (ii) that their interest in the contract is being solicited?  **yes**  **no**
  - (iii) how to obtain and inspect the applicable plans and specifications and descriptions of items to be purchased?  **yes**  **no**

**2. BREAKING DOWN THE WORK.**

(a) Did your firm select portions of the work to be performed by SDBEs in order to increase the likelihood that the goals would be reached?  **yes**  **no**

(b) If **yes**, please describe the portions selected. **ANSWER:**

**3. NEGOTIATION.** In your answers to 3, you may omit information regarding SDBEs for which you are providing Form E-105.

(a) What are the names, addresses, and telephone numbers of SDBEs that you contacted? **ANSWER:**

(b) Describe the information that you provided to the SDBEs regarding the plans and specifications for the work selected for potential subcontracting. **ANSWER:**

(c) Why could your firm not reach agreements with the SDBEs that your firm made contact with? Be specific. **ANSWER:**

**4. ASSISTANCE TO SDBEs ON BONDING, CREDIT, AND INSURANCE.**

(a) Did your firm or the City require any subcontractors to have bonds, lines of credit, or insurance?  **yes**  **no** (Note: In most projects, the City has no such requirement for *subcontractors*.)

(b) If the answer to (a) is **yes**, did your firm make efforts to assist SDBEs to obtain bonds, lines of credit, or insurance?  **yes**  **no** If **yes**, describe your firm's efforts. **ANSWER:**

(c) Did your firm provide alternatives to bonding or insurance for potential subcontractors?  **yes**  **no** If **yes**, describe. **ANSWER:**

**5. GOODS AND SERVICES.** What efforts did your firm make to help interested SDBEs to obtain goods or services relevant to the proposed subcontracting work? **ANSWER:**

**6. USING OTHER SERVICES.**

(a) Did your firm use the services of the City to help solicit SDBEs for the work?  **yes**  **no**  
Please explain. **ANSWER:**

(b) Did your firm use the services of available minority/women community organizations, minority and women contractors' groups, government-sponsored minority/women business assistance agencies, and other appropriate organizations to help solicit SDBEs for the work?  **yes**  **no**  
Please explain. **ANSWER:**