

REQUEST FOR QUALIFICATIONS



PROFESSIONAL DESIGN SERVICES
for
MUDDY CREEK GREENWAY REPAIRS

RFQ23280

issue date: 05.09.23

Proposals shall be complete and comply with the requirements listed herein.

SUBMISSION DEADLINE: Submit proposals electronically in PDF format only by **4:00pm, May 24, 2023** to Donna Beck at donnabe@cityofws.org. Responses received after this date and time will not be considered.

Project Summary: The City of Winston-Salem's Engineering Division is inviting proposals from qualified engineering firms interested in providing plans and specifications for competitive bidding to repair approximately 1,000 linear feet of stream bank and channeling along the Muddy Creek Greenway. This work includes grading severely eroded creek banks, installing erosion control measures, installing grade control (natural stone) structures, planting native plants (trees, shrubs, and plugs) removing trees as necessary and reseeding.

All questions concerning this RFQ or the scope of work should be submitted in writing to Donna Beck at donnabe@cityofws.org by the End of Question period of 4:00pm, May 18, 2023.

This RFQ will in no manner be construed as a commitment on the part of the City to award a contract. The City reserves the right to reject any or all applications; to waive minor irregularities in the RFQ process or in the applications; to re-advertise this RFQ; to postpone or cancel this process; select and procure parts of services; and to change or modify the RFQ schedule at any time.

SECTION 1: NOTICE TO PROPOSERS

It is the policy of the City that an employee, officer, or agent of City may not participate in any manner in the bidding, awarding, or administering of contracts in which they, or a member of their immediate family, their business partner, or any organization in which they serve as an officer, director, trustee, or employee, has a financial interest.

The successful proposer must comply with all provisions of the Americans with Disabilities Act (ADA), the Equal Employment Opportunity Act (EEOA), and all rules and regulations promulgated thereunder. By submitting a proposal, the successful proposer agrees to indemnify the City from and against all claims, suits, damages, costs, losses, and expenses in any manner arising out of, or connected with, the failure of the Company, its subcontractors, agents, successors, assigns, officers, or employees to comply with the provisions of the ADA, EEOA, or the rules and regulations promulgated thereunder.

No special inducements will be considered that are not a part of the original bidding document.

City's Rights and Options

The City, at its sole discretion, reserves the following rights:

- To supplement, amend, substitute or otherwise modify this RFQ at any time
- To cancel this RFQ with or without the substitution of another RFQ
- To take any action affecting this RFQ, this RFQ process, or the services subject to this RFQ that would be in the best interests of the City
- To issue additional requests for information
- To require one or more service providers to supplement, clarify, or provide additional information in order for the City to evaluate the responses submitted
- To share the Proposals with City employees other than the Evaluation Committee or City advisory committees as deemed necessary
- To award all, none, or any part of the Services that is in the best interest of the City, with one or more of the Service Providers responding, which may be done with or without re-solicitation.
- To discuss and negotiate with selected Service Provider(s) any terms and conditions in the Proposals including but not limited to financial terms
- To negotiate a contract with a service provider based on the information provided in response to this RFQ.

Public Records

Any material submitted in response to this RFQ will become a "public record" once the proposer's document(s) is opened and the proposer is determined to be a participant in the solicitation process and shall be subject to public disclosure consistent with Chapter 132, North Carolina General Statutes. Proposals submitted under this section shall not be subject to public inspection until a contract is awarded N.C.G.S 143-129.8(d).

Trade Secrets/Confidentiality

Proposers must claim any material that qualifies as "trade secret" information under N.C.G.S. 66152(3) in their response to this RFQ and must state the reasons why such exclusion from public disclosure is necessary and legal.

To properly designate material as trade secret under these circumstances, each Proposer must take the following precautions: (a) any trade secrets submitted by a Proposer should be submitted in a separate, sealed envelope marked "Trade Secret - Confidential and Proprietary Information - Do Not Disclose Except for the Purpose of Evaluating this Proposal," and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope.

Do not attempt to designate your entire proposal as a trade secret, and do not attempt to designate pricing information as a trade secret. Doing so may result in your bid being disqualified.

In submitting a proposal, each Proposer agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who assist City in the selection process. Furthermore, each Proposer agrees to indemnify

and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with disclosing any material, which the Proposer has designated as a trade secret.

The City reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

Familiarity with Laws and Ordinances

The submission of a proposal on the services requested herein shall be considered as a representation that the Proposer is familiar with all federal, state, and local laws, ordinances, rules, and regulations which affect those engaged or employed in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the Proposer discovers any provisions in the RFQ documents that are contrary to or inconsistent with any law, ordinance, or regulation, it shall be reported to the City in writing without delay.

The Proposer agrees that in carrying out this contract, compliance will be maintained with all applicable federal, state, and local laws, specifically including, without limitations, the Occupational Safety and Health Act of 1970 and Section 1324A, the Immigration Reform and Control Act.

The Proposer certifies that the proposal is made in good faith and without collusion with any person making a proposal or with any officer or employee of the City.

The Proposer agrees, in connection with the performance of this contract, not to discriminate against any employee or applicant for employment because of race, religion, color, gender, age, handicap, political affiliation, or national origin.

Ethics Policy / Code of Conduct

The City of Winston-Salem has established guidelines for ethical standards of conduct for City representatives and to provide guidance in determining what conduct is appropriate in particular cases. City representatives should maintain high standards of personal integrity, truthfulness, honesty, and fairness in carrying out public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their position or power for improper personal gain. In establishing an ethics policy, the City of Winston-Salem desires to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of these policies as well as promote and strengthen the confidence of the public in their governing body. For a complete review of the City Policy as it relates to this solicitation, click the following link. <http://www.cityofws.org/bids>.

Stimulation of the Local Economy

In an effort to stimulate the local economy, foster development and promote efficiency in the provision of city services and the completion of various city projects, the City of Winston-Salem has undertaken an initiative to strongly encourage all parties contracting with the City of Winston-Salem to evaluate their internal operations and hiring practices and, where appropriate, to initiate efforts to stimulate the local economy by hiring applicants and contractors from the Winston-Salem/Forsyth County Area and by utilizing minority and women contractors and service providers. Such efforts to stimulate the local economy may be accomplished by posting job vacancies with the North Carolina Employment Security Commission, the Piedmont Triad Regional Council of Governments, and the Winston-Salem Urban League; and utilizing the State of North Carolina Office for Historically Underutilized Business database <https://www.ips.state.nc.us/vendor/searchvendor.aspx?t=h> or other local resources such as the City of Winston-Salem M/WBE Program to identify Winston-Salem/Forsyth County based contractors and subcontractors. Stimulation of the local economy requires a collaborative effort of both the public and private sector. The City is committed to taking reasonable steps to achieve said goal.

Iran Divestment Act

Provider hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list.

Divestment from Companies that Boycott Israel

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel in violation of NCGS 147-86.80 et. seq. and that it will not utilize on this agreement any subcontractor on said list.

E-Verify Compliance

Per N.C.G.S. 143-133.3, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the CONTRACTOR utilizes a subcontractor, the CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Right to Audit

To confirm compliance with the terms of this Agreement, the City's MWBE program, local, state, and federal laws and regulations, the City may, at all reasonable times upon reasonable prior notice during usual business hours, inspect, audit and examine for a period up to five (5) years after completion of the service or project detailed in this Agreement, all accounts and books of Contractor and, where necessary, make copies of the Contractor's documents necessary to determine compliance. Such right may be exercised through any agent or employee of City or by independent certified public accountants designated by the City. The Contractor shall permit the aforementioned inspection, audit and examination, and where necessary, the City to make copies of documents verifying compliance as indicated herein.

Public Health & Safety

To protect public health, including the health of city employees, and to slow the rate of transmission of COVID-19, all vendors, contractors and service providers, including their employees, officers, agents and subcontractors, conducting business with the City of Winston-Salem (collectively hereinafter "City Contractors") must align their operations, employment and safety practices with the guidance and recommendations of the CDC and OSHA relating to COVID-19 and the executive orders issued by Governor Roy Cooper, until further notice. All City Contractors must implement, adhere to, and enforce measures that require, amongst other things, frequent hand washing, the use of hand sanitizer, social distancing and the wearing of contractor-provided PPE including, but not limited to, face masks and gloves, recommended by the CDC, OSHA, the State of North Carolina or the City of Winston-Salem, by all of their employees and subcontractors accessing city owned or leased property. Until further notice, all City Contractors must refrain from accessing city owned or leased property without the aforementioned PPE and must refrain from accessing city owned or leased property if exhibiting any symptoms associated with COVID-19. Failure to adhere to the requirements set forth herein may result in the removal of a City Contractor from city owned or leased property and the City's exercise of the appropriate contract suspension or termination provisions.

Nondiscrimination Ordinance

As a condition of entering into this contract, the Contractor represents and warrants that it will fully comply with the City's Non-Discrimination Policy, as set forth in Chapter 2, Section 2-8 Entitled "Policy of Nondiscrimination" of the Winston-Salem City Code. As part of such compliance, the Contractor shall not discriminate on the basis of race, ethnicity, color, creed, religion, sex, sexual orientation, gender identity, gender expression, pregnancy, veteran status, disability, age, marital status, familial status, protected hairstyle, political affiliation or national origin in the screening of applicants, the hiring and treatment of its employees, the provision of the goods and/or services set forth herein, or the solicitation, selection, hiring, or treatment of its subcontractors, vendors or suppliers, (hereinafter collectively "subcontractors"), if any, in connection with this contract or the contract solicitation process if applicable, nor shall the Contractor retaliate against any person or entity for reporting instances of such discrimination. The Contractor shall enact employment policies consistent with this obligation to refrain from such discrimination and shall provide evidence of such to the City within 90 calendar days of the first receipt of City funds. The Contractor shall provide equal opportunity for subcontractors to participate in all of its subcontracting and supply opportunities, if any, under this contract, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Contractor understands and agrees that a violation of this clause shall be considered a material breach of this contract and may result in termination of this contract, disqualification of the Contractor from

participating in future City contracts pursuant to Winston-Salem City Code Section 2-3 or other sanctions. Furthermore, as a condition of entering into this contract, the Contractor agrees to: (a) promptly provide to the City in a format specified by the City all information and documentation that may be requested by the City from time to time regarding the screening of applicants, the hiring and treatment of its employees particularly if City funds were used in connection with hiring and compensation process, and the solicitation, selection, treatment and payment of subcontractors, if any, in connection with this Agreement; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors that the Grantee has used under this contract, including the total dollar amount paid by the Contractor on each subcontract or supply contract. The Contractor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination Policy, to provide any documents, relevant to such investigation, that are requested by the City. The Contractor agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by the Contractor to subcontractors and suppliers in connection with this contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time. Nothing in this contract shall negate or diminish the requirements of the City's MWBE program. Nothing in this contract shall infringe upon any rights afforded to the Contractor by state or federal law.

SECTION 2: PROFESSIONAL SERVICES DESCRIPTION

This project is needed to repair approximately 1,000 linear feet of stream bank and channeling along the Muddy Creek Greenway. This work includes grading severely eroded creek banks, installing erosion control measures, installing grade control (natural stone) structures, planting native plants (trees, shrubs, and plugs) removing trees as necessary and reseeded.

The awarded firm will need to provide bid specifications and necessary documents; and the firm may be asked to provide construction administration.

The professional services requested include: Assessing and evaluating the existing conditions of the stream bank and greenway, and make recommendations for restoration and repairs.

The firm must have the financial ability to undertake the work and assume the liability.

Insurance. The selected firm(s) will be required to furnish proof of Professional Liability insurance coverage in the minimum amount of \$1,000,000.00 per claim. The firm(s) must have an adequate accounting system to identify costs chargeable to the project.

Any firm desiring to be considered must be properly registered with the Office of the Secretary of State. The professionals performing the work and in responsible charge of the work must be registered in the State of North Carolina and must have a good ethical and professional standing. It is the responsibility of the selected private firm to verify the registration of any corporate subsidiary or subcontractor prior to submitting a Letter of Interest.

Tentative Project Timeline:

Proposal Evaluation = May 25-26

Contract Negotiation = May 26-June 2

Board Approval = June 20

Contract Execution = June-July (~4 weeks)

Begin Design Work = August 1

An Excel cost estimate will be required to set M/WBE goals prior to construction bidding.

Competitive bidding will be handled by Purchasing staff (4 weeks).

If successful, it typically takes 90 days thereafter to award & begin construction.

SECTION 3 - FORMAT FOR SUBMISSION OF A LETTER OF INTEREST:

Firms submitting proposals are encouraged to carefully check them for conformance to the requirements identified herein. All qualified firms who submit responsive proposals will be considered. If, however, a proposal does not meet these requirements, they will be disqualified, and no exceptions will be granted.

FORMAT FOR SUBMISSION:

Submit only electronic proposals **in PDF format only**, as noted on page 1. To ensure delivery, proposals larger than 20 MB in size should be split into Part 1, Part 2, etc. All Letters of Interest should be **limited to 18 pages** including the cover sheet, unless more than 5 pages are needed to document good faith efforts related to the M/WBE goal or M/WBE certification in another state.

Each LOI/SOQ should be assembled as follows:

Section I - Cover/Introductory Letter

The introductory letter should be addressed to: Donna Beck, Special Projects Coordinator

City of Winston-Salem Engineering Department
P.O. Box 2511
Winston-Salem, NC 27102

The letter should be no more than two (2) pages and should contain the following information:

- Expression of firm's interest in executing the work noted;
- Statement of any possible conflicts of interest;
- Summation of information contained within the letter of interest, including an email address, street address and telephone number for the firm's contact person.
- General information about the firm, including the number of years in business;
- Location of office or offices where the work is to be performed;

Section II –Staffing Information

This section is limited to four (4) pages and should contain the following information:

- Organizational chart indicating personnel to be assigned to this project; include discipline and list availability;
- Resumes or documentation outlining the unique qualifications/experience of key team members;
- Identify project personnel/sub-consultants' qualifications, experience, and availability;

Section III –Project Understanding and Similar Projects

This section is limited to seven (7) pages and should contain the following information:

- Understanding of this project (site conditions, greenway design, etc.);
- Anticipated approach to problems commonly discovered for projects of this type and magnitude;
- Proposed schedules (number of weeks) for completion of design, including revisions from review by the City, and then bidding documents;
- Descriptions and visuals of similar projects performed within the last 10 years, especially for municipalities. Provide owner name, contact email, location, year completed, and project budget versus actual cost;

Section IV – MWBE Affidavit of Minority Participation/Good Faith Efforts

This section is limited to five (5) pages, unless additional pages are required to show good faith efforts, and should contain the following information:

- Identification of Minority Business Participation form (Unless the consultant intends to perform 100% of the work with Own Workforce); and
- Fully-executed “Affidavit A”; detailed information is not required at this time but is a commitment by the proposer to either meet the 10% goal or make a good faith effort; and
- Subcontractor Utilization form- Listing all non-M/WBE subcontractors and suppliers that you intend to use on this contract. NOTE: you will only receive credit for HUB-certified minority or woman-owned firms; or
- If applicable, fully executed “Affidavit B” committing to self-performing 100% of the work [submit this form in lieu of the other three forms listed above]. *NOTE: A firm submitting Affidavit B will receive zero points for M/WBE participation unless the firm is a certified M/WBE.*

Do NOT submit fee information with your submittal. The City selects firms for professional services based on demonstrated competence and qualification. Once a firm is selected, the City will enter into contract negotiations with that firm; and, as part of that negotiation, will determine a fair and reasonable fee for the services to be provided. Should contract/fee negotiations fail, the City reserves the right to terminate negotiations with the selected firm(s) and proceed to negotiate with the next most qualified firm(s). Once the agreement is reached, staff will make a recommendation to the board and upon that approval, begin the contract process. A detailed scope of services (broken down by specific milestone events/deliverables), and associated fee proposal, and implementation schedule will be refined, agreed to and once signed, will be identified and attached to the City’s contract agreement.

The City of Winston-Salem in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Award of Contract

The selected firm will be notified by telephone. Notification will be given by e-mail to those firms not selected.

The City of Winston-Salem reserves the sole right to award a contract or contracts to the most qualified firm(s) on the basis of best overall proposal most advantageous to the City. The City of Winston-Salem is therefore not bound to accept a proposal on the basis of lowest price. The City of Winston-Salem also reserves the right to make multiple awards, based on experience and qualifications if it is deemed in the City’s best interest.

The successful bidder for this project will be required to execute the City’s “Professional Services Agreement”. A copy of this document can be provided upon request. Before the Contractor may begin work, the successful Bidder must show proof of insurance as outlined in the Insurance Provision of Contract Specifications contained herein. The City of Winston-Salem **MUST** be named as additional insured on the certificate of insurance supplied to the City.

SECTION 4 - EVALUATION CRITERIA

All proposals received prior to the established due date/time will be evaluated and considered based on the completeness of the responses to the defined specifications. The City of Winston-Salem reserves the right to award this contract to the vendor deemed best suited to achieve the goals and desires outlined in this document. Respondents will be evaluated for selection on the basis of the Proposer most qualified to meet the requirements listed herein. The criteria to be considered in evaluation include the following:

1. **M/WBE Commitment** – Proposer’s efforts to comply with all the terms and conditions of the City of Winston-Salem’s Minority and Women Business Enterprise (M/WBE) Program through award of subcontracts to minority and women owned business enterprises and utilization of minority and women owned business enterprise suppliers to the fullest extent consistent with the efficient performance of this contract. *(**refer to Section 5 for required forms)*
2. **Staffing Information** – Particular attention to the proposed team’s education, certification, and direct experience with similar projects, including construction administration. Organizational chart indicates how suited the firm/team is to implement this project. Confidence in the team’s dedication to the project based on their proposed schedule and capacity documentation.
3. **Understanding of Project** – The proposer’s demonstrated understanding of the nature of the project scope and purpose, and proposals noted pertinent details that would help exhibit clear understanding of potential project obstacles/challenges and how they will be addressed by the team.
4. **Similar Projects** – Proposer should include a list of similar projects within the last 10 years that have been completed -- or fully designed but not implemented -- by the proposed project team. The background and experience of the proposed team in providing similar services elsewhere, especially the level of experience in working with municipalities, and the quality of services performed. Determination that the selected respondent has no contractual relationships that would result in a conflict of interest to the City’s contract.

A 5-point scale is used. **The following “Weighted Scale” will be used to evaluate each proposal:**

Evaluation Criteria	Weight
M/WBE Commitment	20%
Staffing Information	25%
Understanding of Project	20%
Similar Projects	35%
Total	100%

SECTION 5 - MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE) PROGRAM

SPECIAL INSTRUCTIONS FOR PROPOSALS REGARDING COMPLIANCE WITH THE CITY OF WINSTON-SALEM'S AND/OR CITY/COUNTY UTILITY COMMISSION'S MINORITY AND WOMEN BUSINESS ENTERPRISE (M/WBE) PROGRAM

Policy

It is the policy of the City of Winston-Salem and/or the City/County Utility Commission (an agency of the City of Winston-Salem), that minority and women-owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with City and/or Commission funds.

Obligation of Proposers

Proposers agree to use their best efforts to comply with all the terms and conditions of the City of Winston-Salem's and/or City/County Utility Commission's Minority and Women Business Enterprise (M/WBE) Program, as the same may be amended from time to time, through the award of subcontracts to minority and women-owned business enterprises and utilization of minority and women-owned business enterprise suppliers to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority and women business" shall mean a company that is 51% or more owned and controlled by minority group members or women.

A **10%** goal for participation by minority and women-owned businesses has been established for this service. A proposer may meet this goal through the participation of M/WBE sub-consultants and/or through his/her own performance on the project if the proposer is a certified minority/woman-owned firm. If it is the normal practice of the proposer to perform all elements of this type of service with its own workforce and without the use of sub-consultants, the proposer must certify, by the submission of Affidavit B, that if they do employ any sub-consultants during the contract, that they will be subject to the M/WBE goals originally established for this service. The utilization of M/WBE firms accounts for 20% of the evaluation and scoring, and will not be allocated to proposals in which an Affidavit B is submitted. A proposer may meet the 10% goal through the participation of M/WBE sub-consultants and/or through their own performance on the project if the proposer is a certified minority and/or woman-owned firm.

Firms are highly encouraged to consider any and all possibilities for M/WBE participation. A complete list of State of North Carolina HUB certified MBE's and WBE's is available at <https://www.ips.state.nc.us/vendor/searchvendor.aspx?t=h>. The 10% M/WBE goal may be satisfied by an entity that qualifies as a Minority Business Enterprise under N.C. General Statute 143-128, and that has been certified by the State of North Carolina's Office for Historically Underutilized Businesses at the time of the proposal. If an entity is certified as a Minority Business by a state other than North Carolina, proof of certification must be submitted with the proposal. Beginning September 3, 2018, all firms must HUB certified at the time the proposal is submitted.

During the course of the contract, successful consultant will be required to submit ***Minority Documentation for Contract Payments, Affidavit F***, with each monthly pay application. Final payment will be withheld until the consultant completes and submits an ***Affidavit of Payment to M/WBE Sub Consultants***. The City, however, at its discretion may require additional periodic reports. Final payment will be withheld until the goal percentages for M/WBE participation, previously agreed to by the successful consultant, have been confirmed by the City and/or Commission.

MWBE DOCUMENTATION- Firms are required to include the following documentation with the proposal.

Failure to do so may render your proposal as non-responsive:

- Identification of Minority Business Participation- must be submitted with your letter of interest if your firm will employ any sub-consultants on this project; and
- Affidavit A- Listing of Good Faith Efforts; or
- Affidavit B- Intent to Perform Contract with Own Workforce, if the proposer intends to perform 100% of the work required for the contract without the use of sub-consultants.

- Subcontractor/Supplier Utilization Form- List **all** non-M/WBE subcontractors and suppliers that you intend to use on this contract.

Additional M/WBE Forms- To be utilized by the firm that is awarded the contract with the Owner

- Affidavit E- Minority Utilization Commitment Form
- Affidavit F- Minority Documentation for Contract Payments, M/WBE Replacement Request Form, and the Final Affidavit of Payment to M/WBE Sub-consultants.

It is mandatory that the **Identification of Minority Business Participation form** and **Affidavit “A” Listing of Good Faith Efforts** be properly completed, and notarized as defined in the document specifications and submitted with the Bid/Proposal (unless the prime consultant/contractor intends to perform 100% of the work with Own Workforce and properly executes Affidavit B). If the proposer is a certified M/WBE firm, and will be performing less than 100% of the work, then the proposer should indicate the percentage/dollar amount that they will perform, in addition to the remaining work performed by other M/WBE firms.

The **Identification of Minority Business Participation form** must include all M/WBE firms to be used on this project and the total percentage of the proposal that will be performed by businesses who will be subcontractors, vendors, or suppliers on this project. Additional information such as business phone number, work types, city/state, and minority category are important and useful. Failure to list, at a minimum the business name and the total percentage and/or dollar amount of firms contracting may render your proposal as non-responsive and it may not be considered for award. If the proposer has no minority participation, they shall indicate this by entering the word “none” or the number “0.”

The **Affidavit B Intent to Perform Contract with Own Workforce** form must be executed with the Proposal/Bid **only** if the prime consultant/contractor intends to perform 100% of the work required for the proposal/contract without the use of sub consultants. If the prime consultant/contractor is an M/WBE firm, they must indicate such on Affidavit B in order to receive the full 20% credit during the evaluation.

Actual participation achieved or offered shall not be determinative on the issue of good faith efforts. Further, if other factors, other than factors (a) through (g) listed on Affidavit A, are considered, they may be used to credit the contractor’s good faith efforts, but not to discredit them.

In accordance with the **Minority Utilization Commitment Form “Affidavit E”**, no sub consultant/subcontractor who is identified and listed on Affidavit E may be replaced with a different sub consultant/subcontractor unless:

A) The sub consultant/subcontractor’s proposal/bid is later determined by the prime consultant/contractor to be non-responsible or non-responsive, or the listed sub consultant/subcontractor refuses to enter into a contract for the complete performance of the work, or

B) With the approval of the City of Winston-Salem M/WBE office for the good cause demonstrated. Prior to substituting a sub consultant/subcontractor, the prime consultant/contractor shall identify the substitute sub consultant/subcontractor and inform the City of Winston-Salem M/WBE office of its good faith efforts; including the MWBE Replacement Request Form.

Questions or inquires relative to City of Winston-Salem’s Minority and Women Business Enterprise (M/WBE) Program must be directed to **Gwendolyn Teal** at gwendolynt@cityofws.org or phone 336-747-7459.

(Unless the consultant intends to perform 100% of the work with Own Workforce)

IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION

(Name of Project)

I, _____
(Name of Consultant)

do hereby certify, as _____ (insert title and name of company)
that on this project, _____ (insert name of company) will use the following
M/WBE firms as consultants. A proposer may meet the 10% goal through the participation of M/WBE sub-
consultants and/or through their own performance on the project if the proposer is a certified minority and/or
woman-owned firm.

The Proposer shall identify on its proposal the M/WBE firms to be used on this project as subcontractors,
vendors, or suppliers **and** the total percentage of the proposal that will be performed by each minority business.
**Failure to list, at a minimum, the minority firm business name and the total percentage of M/WBE firms
contracting will render your proposal as non-responsive and will not be considered for award.** If the
Proposer has no minority participation, they shall indicate this on the table below by entering the word "None"
or the number "0." **Blank forms will not be deemed to represent zero participation.**

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Percent of Project Work
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

The total percentage of M/WBE firms contracting will be _____%

(Unless the prime consultant intends to perform 100% of the work with Own Workforce)

AFFIDAVIT A: GOOD FAITH EFFORTS

Project: _____

A 10% goal for participation by minority/women owned businesses has been established on this proposal. A proposer may meet this goal through the participation of M/WBE sub-consultants and/or through their own performance on the project if the proposer is a minority/woman-owned firm. Please list below all M/WBE firms to be used on this proposal.

Affidavit of _____
(Name of Proposer)

I hereby do certify that this documentation is a true and accurate representation of my MWBE participation and my good faith efforts. (Attach additional sheets if required).

Minority Firm Name City-State	Phone Number	Minority Category*	Type of Work	Percent of Project Work
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

*Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

If the established 10% goal for participation by minority/women owned businesses is not achieved, the **proposer must provide, with the proposal, the following documentation** to the Owner of their Good Faith Efforts to meet the goals set forth in these provisions.

Examples of documentation include, but are not limited to, the following evidence.

✓	Description	Points	Awarded Points
_____	(a) Did your firm advertise in general circulation, professional association, or minority focus media concerning subcontracting opportunities? NOTE: A consultant must advertise in all three media to receive full value for this item. Each medium is worth five points.	15	_____
_____	(b) Did your firm provide written notice to a reasonable number of specific M/WBE firms that their interest in the contract is being solicited, at least 10 days before proposals are due to allow M/WBE firms time to participate? Please provide a copy of the solicitations sent to at least 3 minority firms from the source list provided by the owner for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall include a specific description of the work to be subcontracted, location where the RFP can be reviewed, and name of		

representative of the lead consultant.

15 _____

✓	Description	Points	Awarded Points
_____	(c) Did you follow up initial solicitation of interest by contacting M/WBE firms to determine with certainty whether the M/WBE firms are interested? Please include telephone log of follow up calls you made to confirm interest.	10	_____
_____	(d) How did your company identify and select portions of the work to be performed by M/WBE firms in order to increase the likelihood of M/WBE participation? Please provide a copy of documentation where this information was included.	15	_____
_____	(e) What services were used from the City of Winston-Salem's M/WBE office; available minority community organizations; minority contractors' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of M/WBE firms? Please provide a copy of this documentation. Note: A proposer must utilize at least two agencies to receive full value. Each agency is worth five points.	10	_____
_____	(f) Did your company negotiate a joint venture or partnership arrangement with minority firms to increase opportunities for minority participation when possible? Please provide copy of any documentation (could be included in Solicitation Letter) advising M/WBE firms what type assistance was available or outlining any other steps taken to fulfill this requirement.	10	_____
_____	(g) Did your company provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands? What procedures were initiated to fulfill this requirement and how were the M/WBE firms informed of this assistance? Evidence of implementation from previous projects in the past 5 years can be submitted. Note: A proposer can receive up to 5 points for offering; 10 points for implementation.	15	_____
Total Points		90	_____

NOTE: A proposer must accumulate at least **55 points** to demonstrate a “**Good Faith Effort**” was made. Partial points may be awarded when the complete requirement of an item is not met.

GOOD FAITH EFFORTS (continued)

GOOD FAITH EFFORTS (continued)

Identification of Minority Business Participation & Good Faith Effort Notarization

Date: _____ Name of Officer: _____

Signature _____

Title _____

State of North Carolina, County of _____ Subscribed and sworn before
me this _____ day of _____, 20 _____.

Notary Public: _____ My commission expires: _____

SEAL

***** MUST BE SUBMITTED WITH PROPOSAL *****

SUBCONTRACTOR/SUPPLIER UTILIZATION FORM

List below all non-M/WBE subcontractors and suppliers that you intend to use on this contract. NOTE: you will only receive credit for certified minority or woman-owned firms. If the Proposer has no non-M/WBE participation, they shall indicate this on the table below by entering the word "None" or the number "0." **Blank forms will not be deemed to represent zero participation and failure to fill in the blank will cause your bid to be deemed non-responsive.**

Name of Project: _____

Name of Consultant: _____

Firm Name & Phone Number	City-State	Type of Work	Percent of Project Work
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

AFFIDAVIT B

INTENT TO PERFORM CONTRACT WITH OWN WORK FORCE

County of _____

Affidavit _____
(Name of Firm)

I, hereby, certify that it is the intent of the aforesaid firm to perform 100% of the work required for the contract:

(Name of Project)

In making this certification, the Proposer states:

- That the proposer does not customarily subcontract elements of this type project,
- Normally performs, has the capability to perform, and will perform all elements of the work on this project with his/her own current work force, and
- Agrees to provide any additional information or documentation requested by the City of Winston-Salem in support of the above statement.

The following information is requested and may be used during the proposal evaluation process. Bidder certifies that:

We () are a Historically Underutilized Business (HUB) certified by the State of North Carolina.

We () are a minority business enterprise

We () are not a minority business enterprise

If yes, please identify in the appropriate box below:

- () Black
- () Hispanic
- () Asian American
- () American Indian
- () Female
- () Socially and Economically Disadvantaged
- () Disabled

**Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).*

In the event the Proposer does not self-perform 100% of the work, the contract will be subject to the M/WBE goals originally established for this project, as well as, good faith efforts and documentation requirements of this program. The utilization of M/WBE firms accounts for 20% of the evaluation and scoring, and will not be allocated to proposals in which an Affidavit B is submitted. A proposer may meet the 10% goal through the participation of M/WBE sub consultants and/or through their own performance on the project if the proposer is a certified minority and/or woman owned firm.

AFFIDAVIT B CONTINUED

The undersigned hereby certifies that he/she has read this certification and is authorized to bind the Proposer to the commitments herein contained.

Date: _____

Name of Officer: _____

Signature _____

Title _____

State of North Carolina, County of _____ Subscribed and sworn before me,

This _____ day of _____, 20__.

Notary Public _____

My commission expires _____

SEAL

AFFIDAVIT "E"

MINORITY UTILIZATION COMMITMENT FORM

Project: _____

Affidavit of: _____
 (Name of Proposer)

Within thirty (30) days after award of contract, the Proposer shall file Affidavit E identifying all M/WBE subcontractors for use on this project. No subcontractor who is identified and listed on this form may be replaced, substituted, or supplemented; nor can their scope of work be modified to include a different subcontractor unless:

- (a) Subcontractor's bid is later determined by the Proposer to be non-responsible or non-responsive, or the listed Subcontractor refuses to enter into a contract for the complete performance of the bid work, or
- (b) With the approval of the City of Winston-Salem M/WBE Office for good cause demonstrated. **Good Faith Efforts** as set forth in the Special Instructions to Proposers shall apply to the selection of a substitute Subcontractor. Prior to substituting a Subcontractor, the Proposer shall identify the substitute Subcontractor and inform the City of Winston-Salem M/WBE Office of its good faith efforts.

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Dollar Value

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Failure to provide the documentation as listed in these provisions may result in rejection of the Bid and award go to the next lowest responsible and responsive bidder.

Date: _____ Name of Officer: _____
 Signature _____
 Title _____

State of North Carolina, County of _____ subscribed and sworn before

me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

SEAL

**THIS DOCUMENT MUST BE SUBMITTED
WITH EACH PAY REQUEST AND FINAL PAYMENT**

AFFIDAVIT "F"

MINORITY DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Consultant: _____
 Address & Phone Number: _____
 Project Name: _____
 Pay Application Number: _____ Period: _____

The following is a list of payments to be made to minority business sub-consultants on this project for the above mentioned period.

Minority Firm Name and Address	Minority Category*	Amount Paid For This Period	Amount Paid To Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Date: _____ Approved/Certified by _____
 In addition to the list of payments above, I hereby certify that no sub-consultant that was identified and listed on Affidavit A- Minority Participation/Good Faith Efforts Form, has been replaced without approval from the City of Winston-Salem's M/WBE Division. Note: Additional M/WBE's can be added for new work only. In this case, please notify M/WBE staff.
 Name: _____
 Title: _____
 Signature _____

THE ABOVE MENTIONED PROJECT IS APPROXIMATELY _____% PERCENT COMPLETE

TO BE COMPLETED AND SUBMITTED PRIOR TO FINAL PAYMENT BEING MADE

**AFFIDAVIT OF PAYMENT TO
M/WBE SUBCONSULTANTS**

The undersigned certifies
that

(Name of Proposer)

has made payment to all M/WBE sub-consultants listed below in accordance with the contract requirements for

(Name of Project)

Your contractual requirement for this project is 10% with certified M/WBE firms.

Sub consultant	Address	Amount Paid
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attached another sheet if needed)

Authorized Signature _____

On _____ day _____, _____, 20_____, _____
this _____ of _____ (Name of Authorized Person)

appeared before me, being personally known, being duly sworn, did execute the foregoing affidavit, and did so state that he/she was properly authorized by _____ to execute the affidavit and did so on his/her free act and deed. (Name of Bidder)

Notary Public _____ My commission expires _____

SEAL

TO BE COMPLETED BY CITY
M/WBE SPENDING

Project: _____

Original Proposal Cost: \$ _____

Contractual Requirement: M/WBE 10%

Subcontract Spending: M/WBE \$ _____ %

Verified this _____ day of _____, 20_____. By: _____
M/WBE Staff

MWBE Replacement Request Form

It is the policy of Winston-Salem and the City/County Utility Commission (an agency of the City of Winston Salem), that minority and women-owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with the City and/or Commission funds.

In accordance with the "Minority Utilization Commitment Form-Affidavit E", no sub-consultant who is identified and listed on this form may be replaced with a different sub-consultant unless: A) the sub-consultant's proposal is later determined by the consultant to be non-responsible or non-responsive, or the listed sub-consultant refuses to enter into a contract for the complete performance of the work, or B) With the approval of the City of Winston-Salem's M/WBE Division, good cause has been demonstrated. Prior to substituting a sub-consultant, the Consultant shall identify the substitute sub-consultant and inform the City of Winston-Salem's M/WBE Division of its good faith efforts; including the M/WBE Replacement Request Form. In order to meet the terms stated above, an M/WBE Replacement Request Form must be completed. Replacement of an M/WBE without written approval from M/WBE Staff is a violation of contract provisions and may result in the Consultant being disqualified from submitting proposals on future City and/or Commission projects.

If a committed M/WBE sub-consultant is terminated for a good cause, the Consultant shall make a Good Faith Effort to find another M/WBE sub-consultant to substitute for the terminated M/WBE. This Good Faith Effort shall be directed at finding another M/WBE to perform at least the same amount of work under the contract as the M/WBE that was terminated, to the extent needed to meet the contract goal established for the project.

Replacement M/WBE: _____

Amount of Subcontract: _____

Work to be performed: _____

New Committed M/WBE Signature: _____ **Date:** _____

By signing this document, the Consultant, M/WBE, and City of Winston Salem's M/WBE Division acknowledges that the 5 days to respond was given, and concurs with the process of replacing the named M/WBE sub-consultant.

Original M/WBE Signature (where possible) Date

Consultant Signature Date

M/WBE Staff Signature Date

INSTRUCTIONS FOR SUBMITTAL OF M/WBE REPLACEMENT REQUEST FORM

IN ADDITION TO SUBMITTING THIS FORM, THE CONSULTANT MUST ENSURE THAT THE FOLLOWING STEPS ARE SATISFIED.

1. Prior to starting the replacement process, the consultant is responsible for coordinating with the M/WBE sub-consultant to see if they are willing and able to perform the work as indicated in their contract. If the Consultant notices a reoccurring issue with an M/WBE sub-consultant, the Consultant shall notify the City of Winston Salem M/WBE staff and keep them abreast of the issues.

2. If the M/WBE sub-consultant cannot perform the work or if the Consultant shows good cause for replacement, M/WBE staff will coordinate with the Consultant to begin the M/WBE replacement process. M/WBE staff will coordinate with other City departments as appropriate.

(Examples of good cause include: M/WBE fails or refuses to execute a written contract; M/WBE fails or refuses to perform the work of its subcontract consistent with normal industry standards; M/WBE fails to meet reasonable, nondiscriminatory bond requirements; M/WBE becomes bankrupt, insolvent, or exhibits credit unworthiness; M/WBE is ineligible to work because of suspension and debarment proceedings; M/WBE voluntarily withdraws from the project and provides written notice; M/WBE owner dies or becomes disabled and is unable to complete its work; or other documented good cause that compels termination. Good cause does not exist where the Contractor terminates a committed M/WBE for failure or refusal to perform the work of the subcontract results from bad faith or discriminatory action of the prime consultant.)

3. Before requesting the City of Winston Salem's consent for the proposed termination/replacement of an M/WBE, the Consultant shall give written notice of the proposed termination/replacement, including the reason for termination/replacement, to the M/WBE firm with a copy to the City of Winston Salem M/WBE staff. The M/WBE shall be given **five days** to respond unless the five day requirement needs to be reduced, due to public necessity (e.g. safety).

4. After the notice period has passed, M/WBE staff will ensure that the Consultant has submitted all supporting documentation for the M/WBE replacement. Letters, phone logs, emails or any other correspondence between the Consultant, the M/WBE sub-consultant, and/or City staff will be considered supporting documentation. This documentation must provide valid reason(s) for replacement as well as the opportunity to correct the issue. Consultants cannot replace for convenience or perform the work with its own forces or those of an affiliate.

5. Once the Consultant is given approval by the City of Winston Salem M/WBE staff to replace an M/WBE sub-consultant, M/WBE staff will send notification to the City project manager and the City/County Purchasing Department for informational purposes.

6. Signature lines on form: Ideally, the form should contain the signature of the original M/WBE sub-consultant being replaced. However, if this is not possible (i.e. the M/WBE will not sign), the documentation supporting the decision and acknowledgement of the reasons for replacement of the M/WBE sub-consultant should be attached. The form shall also be signed by the replacement M/WBE to show their participation on the project as the new committed M/WBE.