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| --- | --- | --- | --- | --- | --- |
| **Vendor No.:** |       | **Purchase Order No.:** |       | **Date Scanned:** |       |

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| --- |
| North Carolina Department of Transportation-Right of Way Unit**Consultant Proposal / Contract** |
|  **THIS AGREEMENT** consisting of twenty-four (24) numbered provisions and two (2) **“Special Provisions”** entered into  |
| this the  | dd | day of | MM | 2020 by and between the **North Carolina Department of Transportation**  |
| hereinafter referred to as the **"DEPARTMENT"** and  | <Specified Consultant> |
| of | <Firm Name and Address> |
| hereinafter referred to as the **SPECIFIED CONSULTANT,** and the **SPECIFIED CONSULTANT** shall not substitute the services of any individual or firm other than the **SPECIFIED CONSULTANT** without prior written consent of the **DEPARTMENT**. |
| **WITNESSETH** |
| It is mutually agreed between the parties hereto as follows:1. The **CONSULTANT** agrees that the **SPECIFIED CONSULTANT** will fully complete all of the requested professional service herein set out and to furnish the **DEPARTMENT** such services on or before **<Month DD, YY>**; it
 |
|  being fully understood and agreed that in the event the **CONSULTANT** shall fail to do so, the **DEPARTMENT** |
| shall consider the services of the said **CONSULTANT** terminated and shall not be liable for the payment for services submitted after said date. In the event of extenuating circumstances and upon written application by the **CONSULTANT**, a written extension of time may, at the option of the **DEPARTMENT**, be granted.  |
| 1. The **Consultant** shall furnish to the **DEPARTMENT** any requested professional services of the **“Architectual Design and Cost”** of certain parcels of land, or designated parts thereof as follows:
2. For and in consideration of his or her services in furnishing said services, the **Consultant** shall be paid as follows:
 |
| **WBS Element:** |       | **County:** |       | **Fed Aid Project:** |       |
| **Description:** |       |
|  |  |
| **TIP** | **Client** | **Service** |  | **Fee** |
|       |       | Service Rendered | $ |       |
|  |
|  |  | **TOTAL** |       |
|  (4) Unless otherwise noted, the following items have been furnished to the **CONSULTANT**, the receipt of which is hereby acknowledged: **Appraisal Request/Summary Sheet Form(s), Form F(s), Project Plan Sheet(s) and any other pertinent data.** |

(5) In the event it becomes necessary to enter into condemnation proceedings on any of the above parcels, the **CONSULTANT** shall, upon request of the **AREA APPRAISER**, or **TRIAL ATTORNEY**, make the **SPECIFIED CONSULTANT** available for re-inspection of the property, appraisal or pre-trial conferences; or to testify as a witness for the **DEPARTMENT** at Commissioner’s Hearings or in Superior Court. The **CONSULTANT** shall be paid for the services of the **SPECIFIED** **CONSULTANT** commensurate with his or her qualifications at a **Per Diem Rate** agreed upon by and between the **CONSULTANT** and the **DEPARTMENT** at the time his or her services are required.

(6) The afore-mentioned professional services shall comply with all of the requirements set out in the **NCDOT Real Estate Appraisal Standards and Legal Principles**; **The Uniform Standards of Professional Appraisal Practice**; and shall also comply with all applicable **Local, State and Federal** laws, ordinances, regulations, restrictions and/or requirements; and additions, revisions and/or supplements thereto.

(7) Should the **DEPARTMENT** for any reasons decide to cancel or terminate the **CONSULTANT’s** services, it will furnish written notice thereof to the **CONSULTANT** who shall, as instructed immediately terminate work or bring to a reasonable state of completion such items of work as may be directed by the **DEPARTMENT**, and will turn over all data and other records or information collected, whether partial or completed. Upon termination, the fee to be paid the **CONSULTANT** will be equitable to cover all services actually rendered, based on a ratio of the amount of work done to the total amount of work which was to have been done.

(8) No additional fee shall be allowed the **CONSULTANT** for assistance by, or services of, supporting agents, or employees of the **CONSULTANT** except by express prior permission in writing by the **DEPARTMENT**.

(9) In the event the **DEPARTMENT** deems a correction of the above-described services necessary because of **CONSULTANT’s** error or oversight, or failure to meet the requirements of Paragraph 6 above, the **CONSULTANT** shall submit to the **DEPARTMENT** within ten (10) days from receipt of such request and at no additional cost to the **DEPARTMENT**, such corrected services. If revisions become necessary because of revised plans or additional requirements on the part of the **DEPARTMENT**, it is agreed that a new contract covering such revisions shall be entered into in writing before such work is performed.

(10) The **CONSULTANT** agrees to indemnify and save harmless the State, its officers, agents and employees from any and all damages or claims for damages accruing or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all damages or claims for damages accruing or resulting to any person, firm or corporation who may be injured or damaged by the **CONSULTANT**, its employees, servants or agents, in performance of this contract. The **CONSULTANT** shall provide **“Worker’s Compensation Insurance”** as required by law at **CONSULTANT’s** own cost and expense.

(11) All of the work to be performed under the provisions of this contract shall be accomplished by the **CONSULTANT** unless it shall have secured the prior written permission of the **DEPARTMENT** to utilize services of others in the preparation of the services set forth in this contract. All professional services performed by the **CONSULTANT** shall be performed by the **SPECIFIED CONSULTANT** as provided in the above agreement.

(12) None of the work provided for in **this Agreement** may be sub-contracted by the named **CONSULTANT** unless it first shall have secured the prior written permission of the **DEPARTMENT**.

(13) **This Agreement** is not assignable by the **CONSULTANT** either in whole or in part.

(14) The **DEPARTMENT** and the **FEDERAL HIGHWAY ADMINISTRATION** shall have the right to approve or reject any firm or individual that the **CONSULTANT** may propose as a subcontractor or employee whose services will be employed in the preparation of the requested professional services herein set out.

(15) The **CONSULTANT** shall not engage the services of any person, or persons now in the employment of the State or of any County or City in the State during the time covered by **this Agreement**, without written consent of the employer of such person and the **DEPARTMENT**.

(16) The parties hereto agree that the **CONSULTANT**, and any agents and employees of the **CONSULTANT** in the performance of **this Agreement**, shall act in an independent capacity and not as officers, employees, representatives or agents of the **State of North Carolina**.

(17) The **CONSULTANT** agrees that a properly executed **“Seal”** shall be attached to the original and any copies of each service made under the terms of this contract, if deemed necessary and/or required.

(18) Time is of the essence on each and all of the provisions of **this Agreement**, and the provisions of **this Agreement** shall extend to and be binding upon and insure to the benefit of the **DEPARTMENT** or it’s successor or successors.

(19) **It is agreed that the CONSULTANT, its servants, agents, and employees, shall keep the requested professional services and all information pertaining thereto in strict confidence and shall not reveal those services or information to any persons, firms, agencies or corporations unless expressly authorized in writing by the DEPARTMENT to reveal such professional services or information relating thereto.**

(20) It is mutually understood and agreed that no alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein, and no alterations or variations of the terms hereof, unless made in writing between the parties hereto, shall be binding on any of the parties hereto.

(21) In the event a dispute arises between all the parties of **this Agreement** concerning a question or fact in connection with the requirements of **this Agreement** or compensation therefore, the decision of the **CHIEF ENGINEER** in the matter shall be final and conclusive for both parties.

(22) The **CONSULTANT** shall comply with applicable **Local, State, and Federal** laws, ordinances, regulations, restrictions and/or requirements; and additions, revisions and/or supplements thereto that are applicable to the work covered by **this** **Agreement.**

(23) The **CONSULTANT** warrants that he or she has not employed or retained any company or person, other than a “**bona fide**” employee working solely for the **CONSULTANT**, to solicit or secure **this Agreement**, and that he or she has not paid or agreed to pay any company or persons, other than a **“bona fide”** employee working solely for the **CONSULTANT** any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of **this** **Agreement**. For breach or violation of this warranty, the **DEPARTMENT** shall have the right to annul **this Agreement** without liability.

**PLEASE INDICATE BELOW BY CHECKING APPLICABLE PROVISION**

**[ ]  DISADVANTAGED BUSINESS ENTERPRISE SPECIAL PROVISIONS**‬‬‬‬‬‬‬‬‬

**[ ]  MINORITY BUSINESS ENTERPRISES AND WOMEN BUSINESS ENTERPRISES SPECIAL PROVISIONS**

**\_\_**     **\_\_\_\_\_\_INITIALS** (Specified Consultant)

## Special Provisions

**DISADVANTAGED BUSINESS ENTERPRISE** **(DBE)** 6/18/07

POLICY

It is the policy of the North Carolina Department of Transportation that Disadvantaged Business Enterprises shall have the opportunity to participate in the performance of contracts financed in whole or in part by Federal Funds in order to create a level playing field.

The Firm is also encouraged to give every opportunity to allow DBE participation in Supplemental Agreements.

OBLIGATION

The Firm, subcontractor, and sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The firm shall carry out applicable requirements of 49 CFR 26 in the award and administration of federally assisted contracts. Failure by the firm to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Department deems necessary.

GOALS

Even though specific DBE goals are not established for this project, the Firm shall report the anticipated utilization of DBE’s during the execution of the work associated with this agreement.

LISTING OF DBE SUBCONTRACTORS

The firm, at the time the agreement is submitted, shall submit a listing of all known DBE firms that will participate in the performance of the identified work. The participation shall be submitted on the Department’s Form RS‑2 or a facsimile thereof. In the event the firm has no DBE participation, it is requested that the firm indicate this on the form by entering the word ‘None’ or the number zero.

DBE DIRECTORY

Real-time information about firms doing business with the Department and firms that are certified through North Carolina’s Unified Certification Program is available in the Directory of Transportation Firms. The Directory can be accessed by the link on the Department’s homepage or by entering <http://apps.dot.state.nc.us/vendor/directory> in the address bar of your web browser. Only those DBE firms with current certification may be listed in the proposal form.

The listing of an individual firm in the Department’s directory shall not be construed as an endorsement of the firms’ capability to perform certain work.

REPORTING DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

When payments are made to Disadvantaged Business Enterprise (DBE) firms, including material suppliers, firms at all levels (prime, subcontractor, or second tier subcontractor) are encouraged to provide the Contract Administrator with an accounting of said payments. The accounting should be listed on the Department’s Subcontractor Payment Information Form (Form DBE-IS). For each payment made to a Disadvantaged Business Enterprise (DBE) firm, please list the following:

|  |  |
| --- | --- |
| DOT Project Number |  |
| Payer Firm Name and Federal Tax ID number  |  |
| Receiving Subcontractor Federal Tax ID number |  |
| Amount of Payment |  |
| Date of Payment |  |

A responsible fiscal officer of the payee firm, subcontractor, or second tier subcontractor who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the Department of Transportation. This information should be submitted as part of the requests for payments made to the Department.

## Special Provisions

**MINORITY BUSINESS ENTERPRISES (MBE) AND WOMEN BUSINESS ENTERPRISES** **(WBE)** 6-18-07

POLICY

It is the policy of the North Carolina Department of Transportation that Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) shall have the opportunity to participate in the performance of contracts financed in whole or in part by State Funds in order to create a level playing field.

The Firm is also encouraged to give every opportunity to allow MBE and WBE participation in Supplemental Agreements.

OBLIGATION

The Firm, subcontractor, and sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The firm shall carry out applicable requirements of G.S. 136-28.4 in the award and administration of state contracts. Failure by the firm to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Department deems necessary.

GOALS

Even though specific MBE and WBE goals are not established for this project, the Firm shall report the anticipated utilization of MBE’s and WBE’s during the execution of the work associated with this agreement.

LISTING OF MBE/WBE SUBCONTRACTORS

The firm, at the time the agreement is submitted, shall submit a listing of all known MBE and WBE firms that will participate in the performance of the identified work. The participation shall be submitted on the Department’s Form RS‑2 or a facsimile thereof. In the event the firm has no MBE/WBE participation, it is requested that the firm indicate this on the form by entering the word ‘None’ or the number zero.

MBE/WBE DIRECTORY

Real-time information about firms doing business with the Department and firms that are certified through North Carolina’s Unified Certification Program is available in the Directory of Transportation Firms. The Directory can be accessed by the link on the Department’s homepage or by entering <http://apps.dot.state.nc.us/vendor/directory> in the address bar of your web browser. Only those MBE/WBE firms with current certification may be listed in the proposal form.

The listing of an individual firm in the Department’s directory shall not be construed as an endorsement of the firms’ capability to perform certain work.

REPORTING MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE PARTICIPATION

When payments are made to Minority Business Enterprise and Women Business Enterprise (MBE/WBE) firms, including material suppliers, firms at all levels (prime, subcontractor, or second tier subcontractor) are encouraged to provide the Contract Administrator with an accounting of said payments. The accounting should be listed on the Department’s Subcontractor Payment Information Form (Form DBE-IS). For each payment made to a Minority Business Enterprise (MBE) or Women Business Enterprise (WBE) firm, please list the following:

|  |  |
| --- | --- |
| DOT Project Number |  |
| Payer Firm Name and Federal Tax ID number  |  |
| Receiving Subcontractor Federal Tax ID number |  |
| Amount of Payment |  |
| Date of Payment |  |

A responsible fiscal officer of the payee firm, subcontractor, or second tier subcontractor who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the Department of Transportation. This information should be submitted as part of the requests for payments made to the Department.

The requested professional services in this assignment are to be made in accordance **with NCDOT Real Estate Appraisal Standards and Legal Principles**, the **Uniform Standards of Professional Appraisal Practice** and the afore-mentioned services shall comply with all of the requirements set out in the **NCDOT Real Estate Appraisal Standards and Legal Principles**; the **Uniform Standards of Professional Appraisal Practice**; all applicable **Local, State, and Federal** laws, ordinances, regulations, restrictions and/or requirements; and any additions, revisions and/or supplements thereto. **No one other than the SPECIFIED CONSULTANT will prepare the analyses, conclusions or value estimates set forth in the report(s)**. Neither the **CONSULTANT** nor the **SPECIFIED CONSULTANT** shall substitute the assistance/services other than secretarial, or any individual or firm without the prior written consent of the **DEPARTMENT.**

**I understand the following items will be supplied or provided by the Department of Transportation: Summary Sheets, plans, & related data.**

**IN WITNESS WEREOF, the parties hereto have set their hands on the day and year first above written as indicated by “Checkbox” on page 3 and the “Initials” line.**

|  |  |  |
| --- | --- | --- |
|  | DATE: |  |
| **SPECIFIED CONSULTANT** |
|  |
| **FIRM NAME** |

|  |  |  |
| --- | --- | --- |
|  | DATE: |  |
| **RIGHT OF WAY AREA APPRAISER** |

|  |
| --- |
|  |
|  | DATE: |  |
| **NORTH CAROLINA DEPARTMENT OF TRANSPORTATION****STATE APPRAISER** |