



ADDENDUM 1

FOR

Request for Letters of Interest (RFLOI)

For

PE/ Design of Mast Arms Installations in Downtown Chapel Hill HO-0013

BID: A/E 25-003

SUBJECT: Addendum 1 – RFQ for Design of Mast Arms Installations in Downtown Chapel Hill

DATE: October 11, 2024

This Addendum answers questions received related to the Notice of Request for Qualifications (RFQ) for Engineering Services for the design of Mast Arms for the Town of Chapel Hill. Submissions are due by 3:00 PM on October 18, 2024.

Listed below are those questions received and our responses:

1. Question: Are photometric calculations required as part of the mast arm installations?

Response: The Town will not require photometric review for the mast arms.

2. Will the lighting analyses be limited to the signalized intersections or will additional lighting analyses be sought along Franklin Street and Rosemary Street?

Response: Additional lighting analysis along Franklin St and Rosemary St. is not being sought in this RFLOI.

3. There are a few signalized crosswalks within the study limits that feature wood poles with span wire. Will these areas be potential candidates to install mast arms?

Response: Yes. All intersections within area of study (Rosemary St & Franklin Street between Merritt Mill Road and Henderson Street) are potential candidates for mast arms.

4. Team Qualifications requests the following: Identify recent, similar projects the firm, acting as the prime contractor, has conducted which demonstrates its ability to conduct and manage the project. Provide a synopsis of each project and include the date completed and contact person. Can you define the date span the Town considers to be “recent?”

Response: In this instance, “recent” means that the representative project was completed within the previous five years. Please note that the representative experience may be a part of a larger scope of work or as a team-member on a multi-disciplinary project.

5. There are some intersections within the project limits currently designed with metal pole mast arms. Are any modifications or designs expected at these intersections?

Response: All intersections within area of study (Rosemary St & Franklin Street between Merritt Mill Road and Henderson Street) are potential candidates for mast arms. The project’s funding is not expected to cover all intersections within the area of study, and part of the project will be determining which intersections have the biggest need improvements to make most effective use of grant funding.

6. What is the extent of pavement design (NCDOT Code 152) in this project?

Response: Pavement design, beyond potential roadway patching to facilitate installation of mast arms or curb/sidewalk improvements, is not expected; however, part of the project involves evaluation of options for intersection improvements. Consultants (or their sub-consultants) should be pre-qualified to perform discipline code 152 – Pavement Design per RFLOI page 1.

7. It is our understanding that the Town typically coordinates with Duke Energy to provide appropriate street lighting on road improvement projects through a municipal agreement. What responsibility would the design firm have with respect to the design and installation/modification of street lighting (Code 341) on this project?

Response: The intent with this project is to determine appropriate intersections for mast-arm mounted signals. Street lighting modification is not proposed unless required by the final design. Consultants (or their sub-consultants) should be pre-qualified to perform discipline code 341 – Street Lighting per RFLOI page 1.

8. Can you elaborate on the bid documents date of 5/1/25 and if there are any funding or timing constraints tied to the federal community funding grant the Town received?

Response: Yes, there are timing constraints. Consultants shall include in Chapter 4 of their submittal a description of proposed technical approach and a project schedule to provide a complete construction document set for proposed improvements to at least one intersection by May 1, 2025.

9. Can you please confirm if construction administration and inspections will be allowed to be a part of the initial contract since federal dollars are involved?

Response: Construction administration will not be a part of the initial design-only contract.

10. If we have any exceptions to the contract language in the RFQ, would you like for us to include them in our submittal?

Response: Consultants may provide any exceptions to the contract language in their submittal package; however, this is not required. Any exceptions to the contract language must be reviewed and approved by the Town prior to contract execution.

END OF ADDENDUM

Advertised: **September 18, 2024**

Town of Chapel Hill

REQUEST for LETTERS of INTEREST (RFLOI)

CONTRACT TYPE PE/DESIGN

TITLE: Mast Arms Installations in Downtown Chapel Hill
ISSUE DATE: September 18, 2024
SUBMITTAL DEADLINE: October 18, 2024
ISSUING AGENCY: Town of Chapel Hill
BID NUMBER: A/E 25-003

SYNOPSIS

SUBCONSULTANTS ARE PERMITTED UNDER THIS CONTRACT.

This contract shall be partially reimbursed with Federal-aid funding through the North Carolina Department of Transportation (hereinafter referred to as the Department). The solicitation, selection, and negotiation of a contract shall be conducted in accordance with all Department requirements and guidelines.

The primary and/or subconsultant firm(s) shall be pre-qualified by the Department to perform ALL of the Discipline Codes listed below for the Town of Chapel Hill. Discipline Codes required are:

- 269 – Urban Roadway Design
- 341 – Roadway Lighting
- 235 – SUE Subsurface Utility Engineering)
- 199 – Route Location Surveys
- 433 – Tier 1 Basic Hydrologic and Hydraulic Design
- 207 – Signal Design
- 208 – Signal Equipment Design
- 155 – Pavement Marking Plans
- 152 – Pavement Design
- 70 – Erosion and Sediment Control Design
- 270 – Utility Coordination
- 132 – Landscape & Streetscape Design

WORK CODES for each primary and/or subconsultant firm(s) SHALL be listed on the respective RS-2 FORMS (see section ‘SUBMISSION ORGANIZATION AND INFORMATION REQUIREMENTS’).

This RFLOI is to solicit responses (LETTERS of INTEREST, or LOIs) from qualified firms to provide professional consulting services to:

Provide engineering design services for new mast arm installations, signalization upgrades, and or curb and sidewalk improvements at one or more intersections along Franklin Street and Rosemary Street, and the streets in between, from Merritt Mill Road to Henderson Street in Downtown Chapel Hill.

Electronic LOIs should be submitted in .pdf format using software such as Adobe, CutePDF PDF Writer, Docudesk deskPDF, etc.

LOIs SHALL be received ELECTRONICALLY no later than 3:00 P.M., October 18, 2024.

Email the LOI to: Zakia Alam, with “RFLOI for Mast Arms Installation” as the subject line.

The address for electronic deliveries is: zalam@townofchapelhill.org

LOIs received after this deadline will not be considered.

Except as provided below any firm wishing to be considered must be properly registered with the Office of the Secretary of State and with the North Carolina Board of Examiners for Engineers and Surveyors. Any firm proposing to use corporate subsidiaries or subcontractors must include a statement that these companies are properly registered with the North Carolina Board of Examiners for Engineers and Surveyors and/or the NC Board for Licensing of Geologists. The Engineers performing the work and in responsible charge of the work must be registered Professional Engineers in the State of North Carolina and must have a good ethical and professional standing. It will be the responsibility of the selected private firm to verify the registration of any corporate subsidiary or subcontractor prior to submitting a Letter of Interest. Firms which are not providing engineering services need not be registered with the North Carolina Board of Examiners for Engineers and Surveyors. Some of the services being solicited may not require a license. It is the responsibility of each firm to adhere to all laws of the State of North Carolina.

The firm must have the financial ability to undertake the work and assume the liability. The selected firm(s) will be required to furnish proof of Professional Liability insurance coverage in the minimum amount of \$1,000,000.00. Proof of Worker’s Compensation, with coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include employer’s liability with a limit of \$100,000 for each accident, \$100,000 bodily injury by disease each employee and \$500,000 bodily injury by disease policy limit. Proof of Commercial General Liability, which shall have minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, sudden and accidental pollution losses, and a contractual liability endorsement. Proof of Business Auto Policy, which shall have minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability. This shall include owned vehicles, hired and non-owned vehicles and employee non-ownership. Note that the Town of Chapel Hill is to be named as an additional insured on the Commercial General Liability policy. The firm(s) must have an adequate accounting system to identify costs chargeable to the project.

SCOPE OF WORK

The **Town of Chapel Hill** is soliciting proposals for the services of a firm/team for the following contract scope of work:

The Town was awarded a federal community funding grant for the design and construction of this project to be administered through the North Carolina Department of Transportation local projects process. This project will entail providing the design documents and construction administration for installing mast arms at as many intersections as the grant funds cover. The project area encompasses Franklin Street and Rosemary Street, and the streets in between, from Merritt Mill Road to Henderson Street in Chapel Hill, North Carolina. No prioritization for which intersections will be developed has been established at this time. The Town will work with the selected consultant to develop the best strategy for overall number of mast arms and signals, location prioritization, and construction implementation based upon budget and scheduling constraints. Once this project approach is established the consultant shall develop the corresponding construction documents for letting to obtain a contractor to undertake the work as well as provide the permitting, if required, and construction administration services during the construction period.

The general scope of work for the activities includes the following:

- Familiarization with the intersection sites within the overall project and any historic documentation including review and assessment of any existing, as-built, GIS, utility company, or Town record documents, drawings, and plans.
- Procurement of or preparation of any and all required surveys to facilitate the design documentation process for the installation of mast arms at as many intersections as the approved project approach determines.
- Coordination with all regulatory agencies having jurisdiction and utility companies to provide the most current and pertinent above ground and underground information.
- Determination of and the subsequent preparation of any documentation and plans required for property acquisitions, right of way easements or construction agreements.
- Development of a rough order of magnitude cost estimate of project components at the beginning of the project to guide the establishment of the quantitative project approach.
- Preparation of all necessary sets of plans, details, and specifications for all components of a complete mast arm installation, signalization upgrade, and intersection sidewalk and curb improvements construction documentation package that meets all applicable codes and local ordinances.
- Preparation of all bid documents including contract with Designer's "front-end" and Town furnished General Conditions "back-end", bid proposal form, project description, pre-bid meeting, responds to bid questions, recommendation of winning bidder and assistance to the Town during bidding and construction contract negotiation.
- Preparation and submittal of any requisite documentation and information to the North Carolina Department of Transportation for the purposes of design, bidding, construction, or close-out approvals and reimbursements.

- Provision of contract administration including oversight of and documentation for bi-weekly project meetings, review and approval of submittals, development of change orders based upon the Town supplied change order form and the NCDOT supplemental agreement form, as well as approval of change orders, variances, and pay applications.
- Oversight of project close-out processes including final acceptance, walk through for warranty approval, creation of punch-list and punch-list check off, as-built documentation in a digital format (including photographs, drawings, submittals, and other materials), any manufacturer's warranty acceptance, closeout documentation manual, and final inspections.

+ Additional Services

The consultant is encouraged to identify any additional work that is not specified in this Scope of Work that would be, in its opinion, necessary to complete the project as defined herein. The consultant may propose additional services that in its opinion will improve the efficiency and quality of the project. If identified, the additional work or services must be included in the proposal but separated out as an additional task to be considered for inclusion in the overall scope of the project.

PROPOSED CONTRACT TIME: The contract resulting from this RFLOI shall be effective for the fiscal years 2024 - 2027.

PROPOSED CONTRACT PAYMENT TYPE: Lump Sum Contract

SUBMITTAL REQUIREMENTS

All LOIs are limited to **twelve pages (12)** pages (RS-2 forms are not included in the page count) inclusive of the cover sheet and shall be typed on 8-1/2" x 11" sheets, single-spaced, one-sided.

Fold out pages are not allowed.

LOIs containing more than **twelve pages (12)** pages will not be considered.

One copy (1) total copies of the LOI should be submitted.

Firms submitting LOIs are encouraged to carefully check them for conformance to the requirements stated above. If LOIs do not meet ALL of these requirements they will be disqualified. No exception will be granted.

SELECTION PROCESS

Following is a general description of the selection process:

- The LGA's Selection Committee will review all qualifying LOI submittals.
- For Project-Specific Contracts (non On-Call type contracts), the LGA's Selection Committee MAY, at the LGA's discretion, shortlist a minimum of three (3) firms to be interviewed. IF APPLICABLE, dates of shortlisting and dates for interviews are shown in the section SUBMISSION SCHEDULE AND KEY DATES at the end of this RFLOI.
- In order to be considered for selection, consultants must submit a complete response to this RFLOI prior to the specified deadlines. Failure to submit all information in a timely manner will result in disqualification.

TITLE VI NONDISCRIMINATION NOTIFICATION

The LGA in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all RESPONDENTS that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit LETTERS of INTEREST (LOIs) in response to this ADVERTISEMENT and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

SMALL PROFESSIONAL SERVICE FIRM (SPSF) PARTICIPATION

The Department encourages the use of Small Professional Services Firms (SPSF). Small businesses determined to be eligible for participation in the SPSF program are those meeting size standards defined by Small Business Administration (SBA) regulations, 13 CFR Part 121 in Sector 54 under the North American Industrial Classification System (NAICS). The SPSF program is a race, ethnicity, and gender-neutral program designed to increase the availability of contracting opportunities for small businesses on federal, state or locally funded contracts. SPSF participation is not contingent upon the funding source.

The Firm, at the time the Letter of Interest is submitted, shall submit a listing of all known SPSF firms that will participate in the performance of the identified work. The participation shall be submitted on the Department's Subconsultant Form RS-2. RS-2 forms may be accessed on the Department's website at [NCDOT Connect Guidelines & Forms](#).

The SPSF must be qualified with the Department to perform the work for which they are listed.

PREQUALIFICATION

The Department maintains on file the qualifications and key personnel for each approved discipline, as well as any required samples of work. Each year on the anniversary date of the company, the firm shall renew their prequalified disciplines. If your firm has not renewed its application as required by your anniversary date or if your firm is not currently prequalified, please submit an application to the Department **prior to submittal of your LOI**. An application may be accessed on the Department's website at [Prequalifying Private Consulting Firms](#) -- Learn how to

become Prequalified as a Private Consulting Firm with NCDOT. Having this data on file with the Department eliminates the need to resubmit this data with each letter of interest.

Professional Services Contracts are race and gender neutral and do not contain goals. However, the Respondent is encouraged to give every opportunity to allow Disadvantaged, Minority-Owned and Women-Owned Business Enterprises (DBE/MBE/WBE) subconsultant utilization on all LOIs, contracts and supplemental agreements. The Firm, subconsultant and subfirm shall not discriminate on the basis of race, religion, color, national origin, age, disability or sex in the performance of this contract.

DIRECTORY OF FIRMS AND DEPARTMENT ENDORSEMENT

Real-time information about firms doing business with the Department, and information regarding their prequalifications and certifications, is available in the Directory of Transportation Firms. The Directory can be accessed on the Department's website at [Directory of Firms](#) -- Complete listing of certified and prequalified firms.

The listing of an individual firm in the Department's directory shall not be construed as an endorsement of the firm.

SELECTION CRITERIA

All prequalified firms who submit responsive letters of interest will be considered.

In selecting a firm/team, the selection committee will take into consideration qualification information including such factors as:

1. **CRITERIA NUMBER 1: 40%** = Qualifications of the firm and experience on relevant and recent (within the last 4 years) projects providing similar services.
2. **CRITERIA NUMBER 2: 10%** = Qualifications and experience of key personnel, project manager, and staff that will be leading the project.
3. **CRITERIA NUMBER 3: 20%** = Demonstrated understanding of the Town's goals and purposes for this project, specific management approach, and the firm's ability to offer the breadth and quality of services required for this project.
4. **CRITERIA NUMBER 4: 30%** = Demonstrated understanding of local conditions, permitting process, and proven experience delivering projects within budget and schedule.

After reviewing qualifications, if firms are equal on the evaluation review, then those qualified firms with proposed SPSF participation will be given priority consideration.

SUBMISSION ORGANIZATION AND INFORMATION REQUIREMENTS

The LOI should be addressed to Zakia Alam, Purchasing and Contracts Manager for the Town of Chapel Hill; zalam@townofchapelhill.org and must include the name, address, telephone number, and e-mail address of the prime consultant's contact person for this RFLOI.

The LOI must also include the information outlined below:

Chapter 1 - Introduction

The Introduction should demonstrate the consultant's overall qualifications to fulfill the requirements of the scope of work and should contain the following elements of information:

- Expression of firm's interest in the work;
- Statement of whether firm is on register;
- Date of most recent private engineering firm qualification;
- Statement regarding firm's(') possible conflict of interest for the work; and
- Summation of information contained in the letter of interest.

Chapter 2 - Team Qualifications

This chapter should elaborate on the general information presented in the introduction, to establish the credentials and experience of the consultant to undertake this type of effort. The following must be included:

1. Identify recent, similar projects the firm, acting as the prime contractor, has conducted which demonstrates its ability to conduct and manage the project. Provide a synopsis of each project and include the date completed and contact person.
2. If subconsultants are involved, provide corresponding information describing their qualifications as requested in bullet number 1 above.

Chapter 3 - Team Experience

This chapter must provide the names, classifications, and location of the firm's North Carolina employees and resources to be assigned to the advertised work; and the professional credentials and experience of the persons assigned to the project, along with any unique qualifications of key personnel. Although standard personnel resumes may be included, identify pertinent team experience to be applied to this project. Specifically, the Department is interested in the experience, expertise, and total quality of the consultant's proposed team. If principals of the firm will not be actively involved in the study/contract/project, do not list them. The submittal shall clearly indicate the Consultant's Project Manager, other key Team Members and his/her qualifications for the proposed work. Also, include the team's organization chart for the Project / Plan. A Capacity Chart / Graph (available work force) should also be included. Any other pertinent information should also be listed in this section.

Note: If a project team or subconsultant encounters personnel changes, or any other changes of significance dealing with the company, NCDOT should be notified immediately.

Chapter 4 - Technical Approach

The consultant shall provide information on its understanding of, and approach to accomplish, this project, including their envisioned scope for the work and any innovative ideas/approaches, and a schedule to achieve the dates outlined in this RFLOI (if any project-specific dates are outlined below).

Construction Bid Package completed. by May 1, 2025

APPENDICES-

CONSULTANT CERTIFICATION Form RS-2

Completed Form RS-2 forms SHALL be submitted with the firm's letter of interest. This section is limited to the number of pages required to provide the requested information.

Submit Form RS-2 forms for the following:

- **Prime Consultant firm**
 - Prime Consultant Form RS-2 Rev 1/14/08; and

- **ANY/ALL Subconsultant firms** to be, or anticipated to be, utilized by your firm.
 - Subconsultant Form RS-2 Rev 1/15/08.
 - In the event the firm has no subconsultant, it is required that this be indicated on the Subconsultant Form RS-2 by entering the word "None" or the number "ZERO" and signing the form.

Complete and sign each Form RS-2 (instructions are listed on the form).

The required forms are available on the Department's website at:

<https://connect.ncdot.gov/business/consultants/Pages/Guidelines-Forms.aspx>

[Prime Consultant Form RS-2](#)

[Subconsultant Form RS-2](#)

All correspondence, and questions concerning this RFLOI should be directed to **Robert Gehris, PE, Engineer III, Public Works, Town of Chapel Hill** at rgehris@townofchapelhill.org

IF APPLICABLE, questions may be submitted electronically only, to the contact above. Responses will be issued in the form of an addendum available to all interested parties. Interested parties should also send a request, by email only, to the person listed above to be placed on a public correspondence list to ensure future updates regarding the RFLOI or other project information can be conveyed. Questions must be submitted to the person listed above no later than **October 4, 2024**. The last addendum will be issued no later than **October 11, 2024**. **Addendum(s) will be published on the Town of Chapel Hill website at www.townofchapelhill.org under the Bid Notices section.**

SUBMISSION SCHEDULE AND KEY DATES

RFLOI Release – **September 18, 2024**

Deadline for Questions – **October 4, 2024**

Issue Final Addendum – **October 11, 2024**

Deadline for LOI Submission – **October 18, 2024**

Shortlist Announced * – **November 1, 2024**

Interviews – the week of **November 11, 2024**

Firm Selection and Notification ** – **November 22, 2024**

Anticipated Notice to Proceed – **December 30, 2024**

* Notification will **ONLY** be sent to shortlisted firms.

** Notification will **ONLY** be sent to selected firms.

Attached is a sample of the Small Service Contract that will be used.

STATE OF NORTH CAROLINA

CONTRACT FOR

COUNTY OF ORANGE

{DESCRIPTION OF SERVICES TO BE PROVIDED UNDER THIS CONTRACT}

This Contract is made and entered into by and between the “Town of Chapel Hill”, herein “Town”, and “{Contractor’s Full Legal Name}”, herein “Contractor”, for the services as described in this agreement.

WITNESSETH

That for and in consideration of the mutual promises and conditions set forth below, the Town and Contractor agree:

1. Duties of the Contractor: The Contractor agrees to perform those duties described in Exhibit A attached hereto and incorporated herein by reference.
2. Duties of the Town: The Town will pay for the Contractor’s services as set forth in Exhibit A.
3. Maximum Sum: Contract amount is not to exceed {insert a not to exceed amount} plus applicable sales tax.
4. Federal Assistance. This Contract is funded, in whole or in part, by federal assistance. Accordingly, the federal provisions contained in Exhibit B apply, as applicable.
5. Billing and Payment: The Contractor shall submit an invoice to the Town for work performed under the terms of this Contract. The Town will make payment within thirty (30) days of receipt of an accurate invoice, approved by the department which contracted for these services.
6. Indemnification and Hold Harmless: The Contractor agrees to indemnify and hold harmless the Town of Chapel Hill and its officers, agents and employees from all loss, liability, claims or expense (including reasonable attorneys’ fees) arising from bodily injury, including death or property damage to any person or persons proximately caused in whole or in part by the negligence or willful misconduct of the Contractor, except to the extent same are caused by the negligence or misconduct of the Town. Contrary to any provision that may be contained in any exhibit attached hereto, the Town shall not consent to limitations of Contractor liability for amounts less than the amount of insurance coverage under this agreement. Any provision that may be contained in any exhibit attached hereto that calls for the Town to indemnify the Contractor shall be only to the extent allowed by law.
7. Insurance Provisions: The Contractor shall provide evidence of current valid insurance (if applicable) for the duration of this agreement, with the Town named as an additional insured under the Contractor’s Commercial General Liability and Business Automobile policies. The required coverage limits are: 1) Commercial General Liability and Business Automobile - \$1,000,000 per occurrence and 2) Workers’ Compensation - \$100,000 for both employer’s liability and bodily injury by disease for each employee and \$500,000 for the disease policy limit. Cyber Liability Coverage in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate is

- required for Contractors having access to personal identifying information and/or computer networks. The Town may also require evidence of supplementary insurance coverages depending on the services provided under this agreement.
8. Non-Discrimination: The Contractor contractually agrees to administer all functions pursuant to this agreement without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.
 9. Federal and State Legal Compliance: The Contractor must be in full compliance with all applicable federal and state laws, including those on immigration.
 10. E-Verify: The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. If any subcontractors are used, they also must comply with these requirements. Pursuant to North Carolina General Statute § 143-133.3 (c)(2), contracts solely for the purchase of apparatus, supplies, materials, and equipment are exempt from this E-Verify provision.
 11. Amendment: This Contract may be amended in writing by mutual agreement of the Town and Contractor.
 12. Termination: Either party may terminate this Contract at any time by giving the other party thirty (30) days written notice of termination prior to the end of the term.
 13. Interpretation/Venue: This Contract shall be construed and enforced under the laws of North Carolina. The courts and the authorities of the State of North Carolina shall have exclusive jurisdiction over all controversies between the parties which may arise under or in relation to this Contract. In the event of any dispute between the parties, venue is properly laid in Orange County, North Carolina for any state court action and in the Middle District of North Carolina for any federal court action. Contrary to any provision that may be contained in any exhibit attached hereto the Town shall not consent to 1) resolving any dispute by means of arbitration and/or 2) waiver of a trial by jury.
 14. Preference: If the terms of any exhibit attached hereto are not consistent with the terms of this Contract, this document shall have preference; provided that where either any exhibit attached hereto or this document establishes higher standards for performance by either party, the higher standard, wherever located, shall apply.
 15. Severability: The parties intend and agree that if any provision of this Contract or any portion thereof shall be held to be void or otherwise unenforceable, all other portions of this Contract shall remain in full force and effect.
 16. Assignment: This Contract shall not be assigned without the prior written consent of the parties.
 17. Entire Agreement: This Contract shall constitute the entire agreement of the parties and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Contract that are not expressly addressed herein. All prior agreements, understandings and discussions are hereby superseded by this Contract.

18. Non-Appropriation of Funding: Contractor acknowledges that the Town is a governmental entity, and the Contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of Town's obligations under this Contract, then this Contract shall automatically expire without penalty to the Town, thirty (30) days after written notice to Contractor advising of the unavailability and non-appropriation of public funds. It is expressly agreed that the Town shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

Contractor and its employees may use, process, view the contents of, or monitor Town data only to the extent necessary for contractor to perform under this Agreement/Contract.

19. Construction Project Related Sales Tax: If applicable, the Contractor must provide certified statements regarding the cost of materials purchased and the amount of North Carolina sales and use taxes paid by Contractor and any subcontractors. Contractor further agrees to provide the Town with any additional information and documentation the Town might request in the event the Commissioner of Revenue of the State of North Carolina requires more information to substantiate a refund claim by the Town for sales or use tax. The Town will not make payment until these statements are submitted. Any tax refunds received by the Town will remain with the Town.
20. Term: This Contract, unless amended as provided herein, shall be in effect until {_____}, 20{____}. Any renewal provisions that may be contained in any exhibit attached hereto are void and without effect.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto cause this Contract to be executed in their respective names.

{CONTRACTOR’S FULL LEGAL NAME}

SIGNATURE

PRINTED NAME & TITLE

TOWN OF CHAPEL HILL

DEPARTMENT HEAD/EXECUTIVE DIRECTOR OR DEPUTY/TOWN MANAGER

PRINTED NAME & DEPARTMENT

ATTEST BY TOWN CLERK:

TOWN CLERK/DEPUTY TOWN CLERK

TOWN SEAL

Town Clerk attests date this the _____ day of _____ 20____ .

Approved as to Form and Authorization

ATTORNEY FOR TOWN

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

FINANCE OFFICER

DATE

EXHIBIT A

SAMPLE COPY

Reserved for Contractor's Proposal

EXHIBIT B**Additional Provisions for Contracts Funded Through Federal Assistance**

This Contract for purchases, services, construction or repairs to be provided by the Contractor hereto to the Town of Chapel Hill is funded, in whole or in part, by Federal assistance in the form of grant, sub-grant, loan or reimbursement either directly to the Town as a recipient or to the Town as a subrecipient of funding provided from the Federal government to an agency of the State of North Carolina or to another pass-through agency. Accordingly, the following Federal provisions apply to this Contract pursuant to 2 CFR § 200.327 and 2 CFR Part 200, Appendix II, as applicable.

A. All Contracts – Compliance with Debarment and Suspension (Executive Orders 12549 and 12689). [2 CFR Part 200, App. II (H)]

A contract award (see 2 CFR § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget guidelines at 2 CFR Part 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), *Debarment and Suspension*. SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

B. All contracts – Compliance with Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). [2 CFR Part 200, App. II (I)]

Contractor will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Contractors that apply or bid for an award exceeding \$100,000 must file the Certification Regarding Lobbying required by the federal granting agency pursuant to 31 U.S.C. § 1352 (as amended).

C. Certain Contracts – Compliance with Rights to Inventions Made Under a Contract or Agreement. [2 CFR Part 200, App. II (F)]

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, *Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*, and any implementing regulations issued by the awarding agency.

D. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, *Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*). [2 CFR Part 200, App. II (D)]

Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. The Town of Chapel Hill must place a copy of the current prevailing wage determine issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage Federal Assistance Standard Provisions – Revised 9-2021

determination. The Town must report all suspected or reported violations to the Federal awarding agency.

E. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, *Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*). [2 CFR Part 200, App. II (D)]

Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Town of Chapel Hill must report all suspected or reported violations to the Federal awarding agency.

F. All Contracts of \$10,000 and above – Termination by Town. [2 CFR Part 200, App. II (B)]

The Town of Chapel Hill reserves the right to immediately terminate any agreement in excess of \$10,000 in the event the Contractor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The Town also reserves the right to terminate the Contract for convenience, with thirty (30) days written notice to the Contractor, if the Town believes, in its sole discretion, that it is in the Town’s best interest to do so. In the event the Town terminates this Contract for convenience, the Contractor will be compensated for work performed and accepted and goods accepted by the Town as of the termination date. Any award under this procurement process is not exclusive and the Town reserves the right to purchase goods and services from other vendors when it is in the best interest of the Town.

G. Contracts for purchases exceeding \$10,000 in value for a single item or through cumulative acquisition – Compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (2 CFR §200.322, *Procurement of recovered material*). [2 CFR Part 200, App. II (J)]

In performance of this contract, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

H. Contracts in excess of \$100,000 involving employment of mechanics or laborers (where applicable) – Compliance with Contract

Work Hours and Safety Standards Act 40 U.S.C. §§ 3702 and 3704 (40 U.S.C. §§ 3701-3708, as supplemented by Department of Labor regulations [29 CFR Part 5]). [2 CFR Part 200, App. II (E)]

Per 40 U.S.C. § 3702, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Per 40 U.S.C. § 3704, no laborer or mechanic involved in construction work can be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

I. All Contracts for the Simplified Acquisition Threshold* and above – Breach or Violation of Terms by Contractor. [2 CFR Part 200, App. II (A)]

The Town reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach or violation of terms of this Contract by the Contractor. (*The National Defense Authorization Act for Fiscal Year 2018 [Public Law 115-91] established \$250,000 as the Simplified Acquisition Threshold. See General Services Agency, Civilian Agency Acquisition Council, CAAC Letter 2018-02, February 16, 2018.)

J. Contracts in excess of \$150,000 – Compliance with Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. [2 CFR Part 200, App. II (G)]
Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency.

K. Construction Contracts (except as provided under 41 CFR Part 60) – Equal Employment Opportunity Clause under 41 CFR § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor. [2 CFR Part 200, App. II (C)]

During the performance of this Contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The Contractor will, in all solicitations or advertisements 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, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Town of Chapel Hill further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the Town of Chapel Hill so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Town of Chapel Hill agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Town of Chapel Hill further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Town of Chapel Hill agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Town of Chapel Hill under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the Town of Chapel Hill; and refer the case to the Department of Justice for appropriate legal proceedings.

ADDITIONAL PROVISIONS

This Contract is subject to additional Federal regulations including, but not limited to, the following:

L. Non-Profit Organization Subrecipients – Records Retention Requirements. [2 CFR § 200.333]

Except for certain exceptions outlined in 2 CFR § 200.333, records pertinent to this Contract must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report.

M. All contracts – Domestic Preferences for Procurements. [2 CFR § 200.322]

As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the

United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

N. All Contracts – Additional Requirements by Federal Awarding Agency.

This Contract may be subject to additional requirements of the Federal awarding agency as may be specified in grant agreements, grant award documents and/or other documents or correspondence associated with the Town of Chapel Hill's acceptance of Federal funding.