



**CITY OF RALEIGH ENGINEERING SERVICES  
DEPARTMENT FACILITIES AND OPERATIONS DIVISION**

Raleigh Municipal Building 222 West Hargett Street, Suite 605  
Raleigh, NC 27601

**INFORMAL BID DOCUMENTS FOR**

**Optimist Gymnasium Waterproofing**

Date of Issue: August 16, 2024

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**CITY OF RALEIGH – ADVERTISEMENT FOR BID (INFORMAL BID)**

**PROJECT:** Optimist Gymnasium Waterproofing  
**PROJECT LOCATION:** 5900 Whittier Dr. Raleigh, NC 27609  
**Informal Bid #:** 274-ES-FO-FY25-OptimistGymWaterproofing  
**Owner and Contact:** City of Raleigh, Facilities and Operations Division  
Raleigh Municipal Building  
222 West Hargett Street, Suite 605, Raleigh, North Carolina 27601  
  
Project Manager Contact: Kingsley Devor'e  
e-mail: [Kingsley.Devore@raleighnc.gov](mailto:Kingsley.Devore@raleighnc.gov)  
  
Additional Contact: Susan Barrameda  
e-mail: [Susan.Barrameda@raleighnc.gov](mailto:Susan.Barrameda@raleighnc.gov)

NOTE: Do not refer or use previously published bid documents.

Pursuant to the General Statutes of North Carolina, Section 143-128 et. seq, contractors are invited to submit Sealed Single Prime Construction bids providing labor, material, and equipment for entering into a Single Prime Contract.

**Cost Specifications:**

Total cost of this project will be included within the bid package. All labor, materials, equipment and permitting fees in relation to the purpose of this project are to be included. Bid proposals shall be for a single lump sum.

**Project Scope:**

- Exterior wall/foundation waterproofing of the gymnasium back wall. This shall include excavation, removal of, and installation of, new below grade waterproofing within designated areas as well as other above grade areas of water prevention.
- The set up and installation of 6" PVC roof drains and have them connect to other drains.
- All box drains will be concrete.
- The cleanup and removal of debris and trash.
- The area is seeded and strawed, as needed.

**Sealed bids:** Bidders are responsible for ensuring delivery of bids before the deadline.  
(No faxed or emailed bids accepted) Bids will be received by:

**Time:** 4:00pm  
**Date:** Thursday, September 19<sup>th</sup>, 2024  
Mail Delivery: City of Raleigh, Engineering Services Dept.  
Attn: Kingsley Devor'e  
222 West Hargett Street, Suite 605

Raleigh, NC 27601

Drop off Times:

**9:00 am – 4:00 pm**

Raleigh Municipal Building, 222 W. Hargett St.

**Deliver to the 6<sup>th</sup> Floor, Suite 605**

Raleigh, NC 27601

**Pre-Bid meeting** will be held at each project site. Attendance is **MANDATORY**. Pre-bid attendance may be used to validate bid submissions. Attendance to the pre-bid will be documented by the City.

**Date:** Tuesday, August 27<sup>th</sup>, 2024

**Time:** 11:00 am

**Location:** 5900 Whittier Dr. Raleigh, NC 27609

**Questions Deadline:** Friday, August 30, 2024, by 4:00pm

Paper hard copy sealed bids are required and digital submissions are not allowed. Bidders have two (2) options for delivery of their bid documents:

- Early delivery via in person/hand delivery on the day of the bid opening during the time shown above. The City of Raleigh, Facilities and Operations Division project manager or representative will be onsite at that time to receive bids. Envelopes must be addressed and sealed and will be securely held.
- Mail-in / drop-off bids in accordance with the address and times shown above.

No public opening will be held in accordance with informal bidding rules.

Contractors are responsible for distributing documents to all sub-contractors.

Information related to this solicitation, including any addenda, will be posted to the Vendor Portal (<https://evp.nc.gov/>).

Bidders will be required to show evidence that they are licensed to perform the work in the Bidding Documents as required by North Carolina General Statute, Chapter 87.

Pursuant to North Carolina General Statutes §143-128.2 et seq. and §143-131, and in accordance with City policy, the City of Raleigh encourages and provides equal opportunity for certified Minority and Women-Owned Business Enterprise (MWBE) businesses to participate in all aspects of the City's contracting and procurement programs to include: Professional Services, Goods and Other Services, and Construction. The prime contractor will be required to identify participation of MWBE businesses in their proposal and demonstrate how that participation will be achieved.

The City's goal is to contract and sub-contract fifteen percent (15%) of the total contract amount to Certified MWBEs on construction projects of \$300,000 or more, or contracts of \$100,000 or more that include any State funding.

No Bid may be withdrawn for Forty-Five (45) days after opening time.

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Optimist Gymnasium Waterproofing

The City reserves the right to reject any or all bids and to waive informalities.

**END OF ADVERTISEMENT FOR BID**

## **INSTRUCTIONS TO BIDDERS**

### **GENERAL**

The general scope of the project is as follows, but not limited to:

- Exterior wall/foundation waterproofing of the gymnasium back wall. This shall include excavation, removal of, and installation of, new below grade waterproofing within designated areas as well as other above grade areas of water prevention.
- The set up and installation of 6" PVC roof drains and have them connect to other drains.
- All box drains will be concrete.
- The cleanup and removal of debris and trash.
- The area is seeded and strawed, as needed.

This includes all inspection/permitting fees. All bid proposals shall be for a single lump sum.

### **PROJECT LOCATION**

Optimist Community Center  
5900 Whittier Dr. Raleigh, NC 27609

### **BID SCHEDULE**

**Bid Deadline:** Thursday, September 19<sup>th</sup>, 2024 by 4:00pm

**Pre-Bid Conference:** Tuesday, August 27<sup>th</sup>, 2024 at 11:00am

**Questions Deadline:** Friday, August 30<sup>th</sup>, 2024 by 4:00pm

### **BID DOCUMENTS**

Project Manager Contact: Kingsley Devore  
e-mail: [Kingsley.Devore@raleighnc.gov](mailto:Kingsley.Devore@raleighnc.gov)  
phone: (919)996-3420  
City of Raleigh, Facilities and Operations Division  
222 West Hargett Street, Suite 605, Raleigh, North Carolina 27601

Additional Contact: Susan Barrameda  
e-mail: [Susan.Barrameda@raleighnc.gov](mailto:Susan.Barrameda@raleighnc.gov)  
phone: (919) 996-3420

Vendor Portal website will post all addenda. The City of Raleigh is not responsible for the accuracy of documents anyone may obtain from any other source.

### **BID SUBMISSIONS**

The submission of a bid will assume that the Contractor has fully examined the site and knows the existing conditions and has made every provision for operating under the existing conditions, and has included all necessary items, and has read and understands the Bidding Documents. No consideration shall be given to any claim for extra compensation or extension of contract time because of failure to comply with this provision.

Bids must be made in strict accordance with the "Bid Form" provided hereto and all blank

## CITY OF RALEIGH

### Optimist Gymnasium Waterproofing

spaces for Unit Prices shall be properly filled in. If no price increase, assign "\$0". When requested alternates (if applicable) or Unit Prices have no entry, the bid may be considered incomplete and the bid may be rejected as non-responsive. All bids must be submitted on the BID PROPOSAL FORM included herein. Prices given shall be both in writing and figures and the complete form shall be without any lineation, alterations, or erasures. In case of conflicting prices, the written prices shall govern. Submit one (1) set of bid forms enclosed.

Bids shall be received in strict accordance with all requirements of the General Statutes of North Carolina. **The bid shall be submitted in sealed envelope(s) as noted on the Bid Proposal Form, with the bidder's name, license number, and project name written on the exterior.**

**One (1) copy shall be submitted to City of Raleigh's Facilities and Operation Division.**

The Contractor shall fill in the Form of Bid as follows:

- A. All bids must be signed by an authorized official of the firm.
- B. Each proposal shall include the full name and address, phone number, and e-mail contact of the bidder.
- C. All signatures shall be properly witnessed.
- D. Enclose required MWBE forms 1) Acknowledgement of MWBE Policy 2) Identification of MWBE Participation for Informal Project Bids
- E. It shall be the specific responsibility of the Bidder to deliver this bid to: **City of Raleigh Facilities and Operations Division** prior to the date and time specified in the invitation to bidders for opening of the Bids. Bidders are encouraged to be prompt as later delivery of a Bid for any reason, including delivery by the United States Postal Service, shall disqualify the Bid.
- F. Modifications of previously deposited bids will be acceptable only if delivered to the place of the bid by the specified time.

The City of Raleigh shall not be held responsible for late deliveries. Faxed and/or email submissions will not be accepted. Proposals not received by the designated time will not be accepted.

The bidder shall fill in and sign the bid form correctly. Bids that show any omission, alterations of form, additions not called for, conditional bids, or any irregularities of any kind may be rejected. Except to the extent allowed by statute, bids shall not be withdrawn and bids shall remain subject to acceptance by the City for a period of Forty-Five (45) days.

The bids will be evaluated, and the contract awarded in accordance with statutory public contract requirements as supplemented by the City of Raleigh's MWBE information supplied with the bid documents.

It is the City's intention to award a contract for work under this project to the lowest responsive, responsible bidder. The City reserves the right to reject any and all bids and to waive without informalities, including without limitation, nonconforming, non-responsive, unbalanced, or conditional bids. The City of Raleigh further reserves the right to reject the bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to not be responsible. The City of Raleigh may also reject the bid of any bidder if the City believes that it would not be in the best interest of the

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Project to make an award to that bidder. The City of Raleigh also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate terms with the successful bidder.

Upon request, bidders must present satisfactory evidence that they have been regularly engaged in the business of constructing such work, such as company work history and references from similar construction projects. And upon request, bidders must show that they are fully prepared with the necessary capital, equipment, etc., to begin the work promptly, and complete the same in accordance with specifications.

The bidder to whom the award is made shall be required to furnish work crews of adequate number, size, and experience to properly perform the work. The Project Manager responsible for the project is required to be on-site during construction. The interpretation of the number of crews, size, and experience will be determined by the City of Raleigh as to their adequacy.

The Contractor will furnish all materials, labor, equipment, supervision, tools, machinery, etc. for complete construction of projects in accordance with plans and specifications of the City of Raleigh.

The City reserves the right to extend the work in this Contract upon the same terms, provided that such extensions shall not exceed in cost fifty per cent (50%) of the original Contract price of the Contract being extended.

The contractor(s) to whom the award is made must carry insurance in the amounts and types outlined in the Insurance Requirements below.

1. Insurance

Contractor agrees to purchase at its own expense insurance coverages to satisfy the following minimum requirements. A certificate reflecting the following minimum coverages shall accompany this Contract:

1.1. Workers' Compensation Insurance:

Limits:

Workers Compensation:	Statutory for the State of North Carolina
Employers Liability:	Bodily Injury by Accident \$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000 each employee

1.2. Commercial General Liability:

Limits:

Each Occurrence:	\$1,000,000
Personal and Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The aggregate limit must apply per project. The form of coverage must be the ISO CG 00 01 policy as approved by the State of North Carolina Department of Insurance. If a form of coverage other than the CG 00 01 is used it must be approved by the City's risk manager. Any endorsed exclusions or limitations from the standard policy must be clearly stated in writing and attached to the Certificate of Insurance. Completed Operations coverage must be maintained for the period of the applicable statute of limitations.



1.3. Commercial Automobile Liability:

Limits:  
\$1,000,000 combined single limit.

1.4. Additional Insured:

Contractor agrees to endorse the City as an Additional insured on the Commercial General Liability, Auto Liability and Umbrella Liability if being used to meet the minimum liability limits for General Liability and Automobile Liability.

The Additional Insured shall read 'City of Raleigh is named additional insured as their interest may appear'.

The Certificate Holder address should read:  
City of Raleigh  
Post Office Box 590  
Raleigh, NC 27602-0590

1.5. Builders Risk Coverage:

Limits:  
Minimum limit in the amount of total bid price. The Builder Risk policy must be endorsed to increase the limit of insurance for all change orders.

1.6. Policy Form:

Builder Risk coverage must be on a direct physical loss basis and contain no exclusion for theft, collapse or damage to foundations or underground structures, pipes or conduits.

1.7. Named Insured:

The Named Insured shall be The City of Raleigh, the Contractor, and all sub-contractors with a contractual assumption of responsibility for damage to the project.

All insurance companies must be admitted to do business in North Carolina and be acceptable to the City's risk manager. If the insurance company(s) is a permitted surplus lines insurer, the insurance company name, and NAIC number must be submitted to the City's risk manager for approval before commencing work. Contractor shall be required to provide the City no less than thirty (30) days' notice of cancellation, or any material change, to any insurance coverage required by this Contract.

A Certificate of Insurance (COI) must be issued by an authorized representative of the insurance carrier(s). Certificates of Insurance must have the insurance company name and NAIC number clearly identified. The acceptance of or the review of Certificates of Insurance by the City does not relieve Contractor of any requirements in the Contract to provide specific insurance coverage required by the Contract, nor does the acceptance of or review of Certificates of Insurance covenant all insurance requirements have been met.

**SITE INVESTIGATION**

All bidders shall examine the site before submitting a proposal in order to determine the extent of

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work involved, size of work, etc., and the conditions under which the work must be staged and performed.

**NON-COLLUSION IN BIDDING**

The Bidder specifically agrees to abide by all applicable provisions of Article 3 of Chapter 133 of the North Carolina General Statutes. By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in case of a joint Bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

(1) The prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.

(2) Unless otherwise required by Law, the prices quoted in the Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

(3) No attempt has been made or will be made by the Bidder to induce any other person, partnership, or corporation to submit or not to submit a Bid for the purpose of restricting competition.

**FORM OF AGREEMENT**

The form of agreement to be entered into shall be the contract included within these specifications.

**E-VERIFY COMPLIANCE UNDER G.S. 143-133.3.**

The contract will require that the selected Firm/Team and any subcontractors comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes (NCGS) consistent with state law requirements for municipal contracts.

**IRAN DIVESTMENT ACT CERTIFICATION.**

The Contractor certifies that, if it submitted a successful bid for this contract, then as of the date it submitted the bid, the Contractor was not identified on the Iran List. If it did not submit a bid for this contract, the Contractor certifies that as of the date that this contract is entered into, the Contractor is not identified on the Iran List. It is a material breach of contract for the Contractor to be identified on the Iran List during the term of this contract or to utilize on this contract any subcontractor that is identified on the Iran List. In this Iran Divestment Act Certification section -- "Contractor" means the person entering into this contract with the City of Raleigh; and "Iran List" means the Final Divestment List – Iran, the Parent and Subsidiary Guidance List – Iran, and all other lists issued from time to time by the N.C. State Treasurer to comply with G. S. 143C-6A-4 of the N.C. Iran Divestment Act.

*\*\* End of Instructions to Bidders \*\**

**CITY OF RALEIGH – INFORMAL BID PROPOSAL FORM**

**Optimist Gymnasium Waterproofing**

City of Raleigh  
Engineering Services Department  
Raleigh Municipal Building  
222 West Hargett Street, Room 605  
Raleigh, North Carolina 27601

Date: \_\_\_\_\_

The undersigned bidder has carefully examined the Form of Contract, the General Conditions, the Supplemental Conditions and Specifications, all of which are acknowledged to be part of the proposal and the Proposal Form, and the Bidder has also examined the site of the proposed work. Bidder agrees to perform all the work included in the Contract as indicated in the Contract Documents within the Optimist Gymnasium Waterproofing scope as it is specified within the bid documents. It is the City's intention to award a contract for all work under this project to the lowest responsive, responsible bidder. The City reserves the right to reject any or all bids and to waive informalities.

The undersigned further agrees to sign a Contract for the work, if offered within ninety (90) days after receipt of Bids, and to furnish surety as specified. The Bidder further agrees to provide and furnish all necessary materials, equipment, machinery, and labor necessary to complete the demolition of the work in full, in complete accordance with the plans and specifications and the contract documents to the full and entire satisfaction of the City of Raleigh and in accordance with these documents within the time limit specified below.

In addition to all other agreements and assurances, the undersigned Bidder understands and hereby agrees as follows:

1. The Bidder represents and agrees to complete the entire project in the following number of Consecutive Calendar Days: Ninety (90) days from the date on the Notice to Proceed.
2. The Bidder agrees to comply with the City's policy to encourage bidders to use Certified MWBE businesses as specified in Division 00 MWBE Requirements.

**Base Bid:**

\_\_\_\_\_ Dollars (\$) (In Words)

\_\_\_\_\_ Dollars (\$) (In Figures)

**Owner's Site Conditions Allowance: Five Thousand Dollars and zero cents (\$5,000.00)**

(Note that the Owner's Site Conditions Allowance shall only be used when pre-authorized in writing by the City.)

**Total Bid:  
(Including Base bid and Owner's Site Conditions Allowance):**

\_\_\_\_\_ Dollars (\$) (In Words)

\_\_\_\_\_ Dollars (\$) (In Figures)

Name of General Contractor and License Number \_\_\_\_\_

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

<u>Dated</u>	<u>Acknowledge Receipt (initial)</u>	
_____	_____	_____
_____	_____	_____
_____	_____	_____

Please check here if no addenda were received: \_\_\_\_\_

**PROPOSAL SIGNATURE PAGE**

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Respectfully submitted this day of \_\_\_\_\_

By: \_\_\_\_\_  
(Name of firm or corporation making bid)

WITNESS:  
  
\_\_\_\_\_  
(Proprietorship or Partnership)

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

Name: \_\_\_\_\_  
Print or type

Title \_\_\_\_\_  
(Owner/Partner/Pres./V.Pres)

Address \_\_\_\_\_

ATTEST:  
  
By: \_\_\_\_\_  
  
Title: \_\_\_\_\_  
(Corp. Sec. or Asst. Sec. only)

License No. \_\_\_\_\_

Federal I.D. No. \_\_\_\_\_

Email Address: \_\_\_\_\_

Office Phone Number: \_\_\_\_\_

(CORPORATE SEAL)

**\*\* END OF CITY OF RALEIGH – BID PROPOSAL FORM**

**PROCEDURE FOR REPORTING NORTH CAROLINA SALES TAX  
EXPENDITURES ON CITY OF RALEIGH CONTRACTS**

1. The following procedure in handling the North Carolina Sales Tax is applicable to this project. Contractors shall comply fully with the requirements outlined hereinafter, in order that the owner may recover the amount of the tax permitted under the law.
  
2. (a) It shall be the general contractor's responsibility to furnish the owner documentary evidence showing the materials used and sales tax paid by the general contractor and each of his subcontractors. Any county sales tax included in the contractor's statements must be shown separately from the state sales tax. If more than one county is shown, each county shall be listed separately.  
  
(b) The documentary evidence shall consist of a certified statement, by the general contractor and each of his subcontractors individually, showing total purchases of materials from each separate vendor and total sales taxes by each county paid each vendor. The certified statement must show the invoice number (s) covered and inclusive dates of such invoices. State sales tax shall be listed separately from county sales tax. If more than one county is shown, each county shall be listed separately.  
  
(c) Materials used from general contractor's or subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.  
  
(d) The general contractor shall not be required to certify the subcontractor's statements.  
  
(e) The documentary evidence to be furnished to owners eligible for sales or use tax refunds covers sales and/or use taxes paid on building materials used by contractors and subcontractors in the performance of contracts with churches, orphanages, hospitals not for profit, educational institutions not operated for profit and other charitable or religious institutions or organizations not operated for profit and incorporated cities, towns and counties in this State. The documentary evidence is to be submitted to the above-named institutions, organizations and governmental units to be included in claims for refunds to be prepared and submitted by them to obtain refunds provided by G.S. 105-164.14 and is to include the purchase of building materials, supplies, fixtures and equipment which become a part of or annexed to buildings or structures being erected, altered or repaired under contracts with such institutions, organizations or governmental units.
  
3. The contractor or contractors to whom an award is made on this project will be required to follow the procedure outlined above.
  
4. The contractor is advised that all requests for payment, partial or final, for work completed under this contract must include a sales tax report submitted in accordance with the procedures outlined above.

**North Carolina Sales Tax**  
(Paid During This Estimate Period)

Project \_\_\_\_\_ Project Location \_\_\_\_\_ County \_\_\_\_\_ Estimate No. \_\_\_\_\_

Contractor \_\_\_\_\_ Period Ending \_\_\_\_\_

Date	Vendor	Invoice Number	Invoice Amount	State Tax	County Tax	Transit Tax	Total Tax	County
<b>TOTALS</b>								

I certify that the above listed vendors were paid sales tax upon purchases of building materials during the period covered by the construction estimate, and the property upon which such taxes were paid with or will be used in the performance of this contract. No tax on purchases or rentals of tools and/or equipment is included in the above list. All of the material above became a part of or is annexed to the building or structure being erected, altered or repaired.

\_\_\_\_\_ County, North Carolina

Signed and sworn to (or affirmed) before this day by \_\_\_\_\_  
(name of principal) (signature of principal)

Date: \_\_\_\_\_  
Notary Public's Signature

(Notary's printed or typed name, Notary Public) (Official Seal) My commission expires: \_\_\_\_\_



## MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM (MWBE)

### CONTRACTOR BID AND REPORTING INSTRUCTIONS (PROJECTS \$30,000 - \$299,999)

Bidders are required to include the following MWBE forms within the sealed bid documents as instructed below:

#### **Use of Certified MWBE Business Form**

**Pg. 16-20**

Note: The additional requirements beyond identification of MWBE participants on page 17 through page 19 are NOT applicable to bids \$30,000 - \$299,999.

Bidder is required to read and sign the following:

Acknowledgement of MWBE Policy (pg. 21)

#### **Identification of Certified MWBE Participation Form**

**Pg. 22**

Bidder is required to list all MWBE business sub-contractors

Lekesha R. Shaw  
MWBE Program Manager  
[lekesha.shaw@raleighnc.gov](mailto:lekesha.shaw@raleighnc.gov)  
919-996-6958

Maria A. Torres  
MWBE Coordinator  
[maria.a.torres@raleighnc.gov](mailto:maria.a.torres@raleighnc.gov)  
919-996-4271

Pam Adderley  
MWBE Coordinator  
[pam.adderley@raleighnc.gov](mailto:pam.adderley@raleighnc.gov)  
919-996-5716



## INFORMATION FOR BIDDERS REGARDING COMPLIANCE WITH THE CITY OF RALEIGH'S MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PROGRAM

### Policy

In accordance with North Carolina law, the City of Raleigh encourages and provides an equal opportunity for Certified Minority and Women-Owned Business Enterprises (MWBE) to participate in all aspects of the City's contracting and procurement programs.<sup>1</sup> The prime contractor or a first-tier subcontractor on a construction manager at risk (CMAR) project (collectively, "Bidder") shall be required to identify participation of MWBE businesses in its proposal, and document how that participation will be achieved. Bidders are subject to the City's MWBE subcontracting requirements (including good faith efforts as applicable), regardless if a Bidder is itself a Certified MWBE.<sup>2</sup>

The city has an aspirational goal of 15% of the total contract amount to be performed by MWBE businesses in contracts awarded by the City for : (i) construction and building products of \$300,000 or more; and (ii) construction and building projects of \$100,000 or more that have state funding.

### Definitions

#### *Certified Minority Business (MWBE)*

A business which:

- a. At least fifty-one percent (51%) is owned by one or more Minority Persons or Socially and Economically Disadvantaged Individuals; or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more Minority Persons or Socially and Economically Disadvantaged Individuals;
- b. The management and daily business operations are controlled by one or more Minority Persons or Socially and Economically Disadvantaged Individuals; and
- c. Is certified in one of the MWBE categories as defined by the NC Department of Administration/Historically Underutilized Business (HUB) and the NC Department of Transportation/Disadvantaged Business Enterprise (DBE).

#### *Minority Person*

A person who is a citizen or lawful permanent resident of the United States and who is:

- a. Black, that is, a person having origins in any of the black racial groups in Africa;
- b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
- c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, the Indian subcontinent, or the Pacific Islands;
- d. American Indian, that is, a person having origins in any of the original peoples of North America; or
- e. Non-minority Female.

#### *Socially and Economically Disadvantaged Individual*

Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.<sup>3</sup>

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<sup>1</sup> See, N.C.G.S. §§ 143-128.2, 143-128.4, 143-129, and 143-131.

<sup>2</sup> See, City of Raleigh SOP 505-2.

<sup>3</sup> See, 15 U.S.C. 637.

### **Bidder Responsibilities**

Bidders agree to comply with all the terms and conditions of the City of Raleigh's Minority and Women-Owned Business Enterprise (MWBE) Program. Bidders must use good faith efforts (if applicable) to meet participation goals through the award of subcontracts to certified MWBE businesses consistent with City policy and North Carolina law.

#### **Pre-Bid Opening**

The City's Solicitation Documents include forms that: (a) capture information about MWBEs and any other subcontractors or suppliers that a Bidder intends to use on a contract ("Identification of MWBE Participation") and (b) affidavits to be completed by the Bidder.

#### *Identification of MWBE Participation*

The "Identification of MWBE Participation" must be completed by the Bidder on the City's form and submitted with its bid. If the project work is to be self-performed by the Bidder, the Bidder must so designate by checking the appropriate box on the form. For all Bidders which will not be self-performing the project work, the "Identification of MWBE Participation" form must be completed in its entirety. The Bidder must list on the City's form all MWBE businesses which will be construction subcontractors, vendors, or suppliers (collectively, "Subcontractors") on the project, and the total dollar value of its bid that will be performed by MWBEs. The failure to complete the "Identification of MWBE Participation" form in its entirety, or the failure to submit a completed "Identification of MWBE Participation" form with its bid, will render the bid non-responsive and the Bidder's bid will not be considered for award. The City will only credit MWBE participation for those Subcontractors listed on the "Identification of MWBE Participation" form.

#### *Affidavit A: Listing of Good Faith Efforts*

If the Bidder intends to subcontract any portion of the project work on a contract, an Affidavit A must be properly executed and submitted with its bid, listing the good faith efforts the Bidder made to achieve MWBE subcontracting goals for the contract prior to submitting its bid. The Affidavit A must be completed using the City's form. A minimum of fifty (50) good faith efforts points is required, the failure to achieve at least 50 points is grounds for rejection of a bid.

#### *Affidavit B: Intent to Perform Contract with Own Workforce*

In lieu of an Affidavit A, a Bidder that intends to perform 100% of the project work on a contract with its own current workforce may submit an Affidavit B with its bid. In submitting an Affidavit B, a Bidder certifies that the Bidder does not customarily subcontract elements of this type of project, and normally performs, has the capability to perform, and will perform all elements of the project work on the contract with its own current workforce. The Affidavit B must be completed using the City's form.

The failure to submit a properly executed Affidavit A or Affidavit B with a bid will render the bid non-responsive and the bid will not be considered for award.

#### **Bid Opening**

At the project bid opening, the total MWBE participation for each bid will be recorded. Upon being named the apparent low bidder, the Bidder must comply with the following:

- a. If the Bidder submitted an Affidavit B with its bid indicating its intent to perform 100% of the project work on the contract with its own current workforce, then the Bidder is not required to resubmit its Affidavit B or to submit any additional affidavits (i.e., Affidavit C or Affidavit D). The City, in its discretion, may request that the Bidder submit additional information or documentation, including, but not limited to, information relating to the Bidder's subcontracting history and its ability to perform all elements of the project work on the contract with its own current workforce.

- b. If the Bidder submitted an Affidavit A with its bid and the amount of MWBE participation as a percentage of the total contract price meets or exceeds the applicable goal, then the Bidder must submit to the City an Affidavit C within three (3) business days after being notified by City Staff that it is the apparent low bidder. The Bidder must complete the Affidavit C in its entirety using the City's form.
- c. If the Bidder submitted an Affidavit A with its bid and the amount of MWBE participation as a percentage of the total contract price does not meet the applicable goal, then the Bidder must submit an Affidavit D to the City within three (3) business days after being notified by City Staff that it is the apparent low bidder. The Bidder must complete Affidavit D in its entirety on the City's form. In conjunction with the Affidavit D, the Bidder must include supplemental documentation of the good faith efforts made to meet the applicable goal. The City, in its discretion, may request that the Bidder submit additional information or documentation, including, but not limited to, information or documentation relating to any good faith efforts claimed by the Bidder, and completion of the City's Good Faith Negotiation Form and Solicitation Form. Good faith efforts can be demonstrated using, among other factors, the following:
  - i. Attending pre-solicitation or pre-bid meetings that are scheduled by the City to inform MWBE firms of contracting, subcontracting, and supply opportunities.
  - ii. Advertising in general circulation, trade association, or minority-focus media concerning subcontracting opportunities.
  - iii. Providing written notice, to a reasonable number of specific MWBE firms that their interest in the contract is being solicited, at least 10 days before bids are due, to allow MWBE firms time to participate.
  - iv. Following up initial solicitation of interest by contacting MWBE firms to determine with certainty whether the MWBE firms are interested.
  - v. Identifying and selecting portions of the work to be performed by MWBE firms in order to increase the likelihood of MWBE participation (including where appropriate, breaking down contracts into economically feasible units to facilitate MWBE participation).
  - vi. Providing interested MWBE firms with equal access to plans, specifications, and requirements of the contract.
  - vii. Negotiating fairly with interested MWBE firms, not rejecting MWBE firms as unqualified without sound reasons based on a thorough investigation of their capabilities.
  - viii. Using the services of the City's MWBE office; available minority community organizations; minority contractors' groups; local, state, and federal minority business offices; and other organizations that provide assistance in the recruitment and placement of MWBE firms.
  - ix. Assisting interested MWBE firms in need of equipment, loan capital, lines of credit or joint pay agreements to secure loans, supplies or letters of credit, including waiving credit that is ordinarily required.
  - x. Assisting interested MWBE firms in obtaining bonding, insurance, or providing alternatives to bonding or insurance for Subcontractors.
  - xi. Negotiating joint venture and partnership arrangements with minority businesses to increase the opportunities for minority participation when possible.
  - xii. Provide for quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands.

For each unmet MWBE participation goal, for which an Affidavit D is submitted, a Bidder must earn at least fifty (50) good faith efforts points. The failure to achieve at least fifty (50) points is grounds for rejection of a bid. All

actions necessary to earn good faith efforts points must occur prior to bid opening. In determining whether a Bidder has made good faith efforts, the City will evaluate the efforts made by the Bidder and will determine compliance with regard to quantity, intensity, and results of these efforts prior to recommendation of award.

#### **Post-Award**

##### *Payment*

For purposes of this section the word "Contractor" means both the prime contractor and the CMAR for CMAR projects. The Contractor must submit a completed **Payment Affidavit - Subcontractor / Supplier Utilization Form** with each payment application, including periodic payments and final payment. Payment applications will not be processed by the City until a completed Payment Affidavit – Subcontractor/ Supplier Utilization Form is submitted. Within seven (7) days of receipt by the Contractor of a periodic or final payment from the City, the Contractor must pay each first-tier Subcontractor based on work completed or services provided under each subcontract. If the Contractor has made a quick pay commitment with any MWBE Subcontractor, they must comply with the provisions of their quick pay commitment.

##### *Changing a Certified MWBE Subcontractor*

If the situation arises that it becomes necessary to terminate, replace, or reduce the work of a MWBE Subcontractor counted toward a committed MWBE subcontracting goal, the Contractor must submit a completed **Request to Change MWBE Subcontractor** form to the applicable department project manager and the City's MWBE Program Manager. Any change in the work of a MWBE Subcontractor, including its termination and/or replacement, must first be approved by the City based upon good cause shown. Any further explanation or detail to the City in addition to what is identified in the Request to Change MWBE Subcontractor form must be on company letterhead. Good faith efforts shall apply to the selection of any substitute Subcontractor.

**ACKNOWLEDGMENT OF MWBE POLICY**

The City's policy is to encourage bidders in the participation of MWBE businesses. A presentation of that policy has been made at the pre-bid or pre-proposal conference. By submission of a bid or proposal in response to this solicitation, the Bidder acknowledges consents to all the terms and conditions of the City of Raleigh Minority and Women-Owned Business Enterprise (MWBE) Policy. A copy of the policy may be provided upon request by the MWBE Program Office or online at [www.raleighnc.gov](http://www.raleighnc.gov).

Bidder recognizes that the City of Raleigh encourages and provides equal opportunity for MWBE businesses to participate in all aspects of the City's contracting and procurement. The City's MWBE participation aspirational goal is at least fifteen percent (15%) of the total contract amount to MWBEs on construction projects of \$300,000 or more and building related contracts of \$100,000 or more that include any State funding. The Bidder on the subject Contract/Proposal must document good faith efforts to provide meaningful participation by MWBEs in the performance of the Contract. Bidder agrees that the City may reject a bid for MWBE Policy violations, including but not limited to, providing inaccurate information or for failure to provide required MWBE documentation.

The Prime Contractor will be required to identify participation of MWBE businesses and how that participation will be achieved. Bidder must identify anticipated subcontractors, including any Minority & Women-Owned Businesses, intended to be used. Bidder further agrees, if awarded a Contract, it will, upon request, submit to the City, the proper affidavit identifying the workforce actually utilized on the Contract. All MWBE related bid documents have been provided to the Bidder. MWBE information provided by the Bidder is subject to the NC Public Records Act. Bidder acknowledges that the City must be notified of any change of subcontractors, suppliers, or subconsultants.

To the extent permitted by North Carolina law, the Bidder, their agents, officials, contractors, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Contract/Proposal. The Bidder further agree, to the extent permitted by law, to conform with the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated herein for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the parties with reference to the subject matter of the Contract/Proposal.

I have read and understand the City of Raleigh's MWBE policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date

