

# APPENDIX A



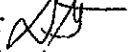
## **SMALL DISADVANTAGED BUSINESS ENTERPRISE (SDBE) REQUIREMENTS AND CONSTRUCTION FORMS**

**CONTRACT: SD-2012-03**

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June 21, 2012

**Memo To:** Marvin Williams, Director  
Public Works

**From:** Deborah Giles, Director   
Equal Opportunity/Equity Assurance

**Subject:** West Knox Street Culvert Stabilization Project

The Equal Opportunity/Equity Assurance Department reviewed the Cost Estimate submitted for the above referenced project to determine appropriate SDBE participation goals.

**Minority SDBE Participation Goal**

Based on the Cost Estimate outlined for this project, the Minority SDBE participation goal should be 0%.

**Women's SDBE Participation Goal**

Based on the Cost Estimate outlined for this project, the Women's SDBE participation goal should be 0%.

cc: Dana Hornkohl, Project Manager

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# CITY OF DURHAM SMALL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

## CONSTRUCTION FORMS

Revised 6/08



### Mailing Address:

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

### Street Address:

302 East Pettigrew Street, C-180  
Durham, North Carolina 27701

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

## INSTRUCTIONS ON SDBE REQUIREMENTS

### FOR USE IN BIDDING ON CONSTRUCTION PROJECTS WITH THE CITY OF DURHAM

These instructions summarize the provisions of the City of Durham's Equal Business Opportunity Ordinance as it applies to the bid process. Of course, as with any summary, it cannot reflect all of the ordinance.

### QUESTIONS AND ANSWERS ON SDBE REQUIREMENTS

**1. What is the purpose of the City's Equal Business Opportunity (EBO) program?** The Director of the City's EO/EA Department has set SDBE goals for this contract. There will be a goal for SDBEs owned by Blacks and a goal for SDBEs owned by women. For the bid to be fully considered by the City, the bid needs to meet those goals or the bidder needs to have made good-faith efforts to subcontract with SDBEs in order to meet the goals. In order to be given credit for making those good-faith efforts, however, the bidder must provide written documentation of those good-faith efforts. That written documentation must be submitted to the City within 2 days after the bid opening unless a different time is stated by the City. See the instructions below regarding Form E-107.

**2. What is an "SDBE"?** It means a Small Disadvantaged Business Enterprise. An SDBE is a business, certified by the City of Durham as an SDBE, whose management, policies, major decisions, and daily business operations are independently managed and controlled by one or more socially and economically disadvantaged individuals. Among those considered to be "socially and economically disadvantaged" are individuals found by the City on a case-by-case basis to have been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a group. The business must not exceed size and gross revenue limits, and it must be majority-owned by one or more socially and economically disadvantaged individuals.

The firm needs to have its certification from the City before the bid opening if it is to count toward meeting the goals. See the next answer on how certification is needed in the good-faith efforts context. Many other units of government, such as counties, departments of transportation, and states, also certify firms and maintain lists of certified firms, but for purposes of complying with the City of Durham's SDBE requirements, the SDBE must be certified by the City of Durham. Certification does not mean that the City has found the firm to be competent.

**3. Can other women or minority owned firms that have been certified by other entities be qualified as an SDBE pursuant to City's EBO Program?** In accordance with Section 26-6(h) of the Ordinance to Promote Equal Opportunities in City Contracting, the City of Durham may consider a formal certification of another entity to determine whether an applicant meets requirements of the Equal Business Opportunity Program, provided that the City Manager or designee determines that the certification standards of such entity are comparable to those of the City. The City of Durham has determined that the following certifications are comparable to its own and may be used by bidders/proposers: North Carolina Department of Transportation (N.C. DOT), United States Small Business Administration (U.S. SBA) and Raleigh-Durham Airport Authority (RDU).

In lieu of SDBE's listed in its SDBE System, the City of Durham will accept women and minority firms certified by N.C. DOT ([www.ncdot.org](http://www.ncdot.org)), U.S. SBA and RDU as meeting its SDBE goal requirements provided the bidder/proposer submits evidence that the firm is currently certified by one of the stated entities

at the time of bid/proposal. Failure to provide evidence of certification may disqualify the firm's participation for the purpose of meeting SDBE goals.

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

**4. What SDBE forms must a bidder or contractor turn in to the City, and when?**

<i>Name or description of form</i>	<i>Necessary to submit this form?</i>	<i>When to submit it?</i>
E-101 (SDBE PARTICIPATION ON BASE BID)	Always	With the bid
E-102 (SDBE PARTICIPATION ON BID ALTERNATE)	Yes, if there are alternates. Use a separate form for each alternate.	With the bid
E-103 reserved for future use)	n/a	n/a
E-104 (EMPLOYEE BREAKDOWN)	Has the bidder prequalified? Has the bidder met the SDBE goals? If the answer to either of these questions is "yes," then the form is not required. If the answer to both of those questions is "no," then the bidder must submit this form as part of its documentation of good-faith efforts.	Within 2 days after bid opening unless a different time is stated by the City
E-105 (STATEMENT OF INTENT TO PERFORM AS SUBCONTRACTOR)	Yes, if the bidder proposes to count any subcontracts with SDBEs towards the SDBE goals	Within 5 days after bid opening unless a different time is stated by the City
E-106 (REQUEST TO CHANGE SDBE PARTICIPATION AFTER BID OPENING)	Yes, if the bidder or contractor proposes certain changes in its subcontracting	Not with the bid. Once the bidder is identified as the apparent lowest responsible bidder, this form is due before the bidder/contractor can make the proposed change.
E-107 (QUESTIONNAIRE ON BIDDER'S GOOD-FAITH EFFORTS)	No, but it may help the bidder's case if the bidder failed to meet the SDBE goals. Do not turn in if the bidder met the goals.	Within 2 days after bid opening unless a different time is stated by the City
Good-faith documentation	Yes, if the bidder failed to meet the SDBE goals.	Within 2 days after bid opening unless a different time is stated by the City
Equal employment opportunity statement	Always, unless the bidder has prequalified	Within 2 days after bid opening unless a different time is stated by the City

**5. If a bidder fails to meet the SDBE goals, can it still be awarded the contract?** Bidders that do not meet the goals but demonstrate good-faith efforts are treated equally to those that meet the goals. Awarding a contract is ultimately the decision of the City Council, which considers compliance with the EBO ordinance along with other matters.

**6. In making good-faith efforts, what SDBEs should a potential bidder contact?** The City provides a list of SDBEs that have been certified by the City of Durham for particular trades, services, goods, etc. Potential bidders should contact SDBEs listed for the work that can be subcontracted.

**7. Our firm already has employees who can do the work and does not want to subcontract that work. How does this fit in?** The purpose of the EBO ordinance is to change business practices that would otherwise occur, by giving opportunities to under-used segments of the economy. If the bidder does not meet the goals, its good-faith efforts will be examined as with any other bidder that did not meet the goals.

**8. If the bidder contacts a small socially and economically disadvantaged firm that could become a certified SDBE, will that count toward good-faith efforts?** This contact will not count unless the firm that you contact is able to get its certification from the City of Durham before the bids are opened. In making good-faith efforts, let us suppose that a potential bidder contacts firms that could qualify to be SDBEs. If those firms have their certification from the City at the time of the bid opening, those contacts will count towards good-faith efforts. But there is a risk, because getting certification takes time, and the firm has to provide various documents to the City in order to merit certification.

**9. Do all subcontracts with SDBEs count?** The City will count as SDBE participation only expenditures to an SDBE that performs a commercially-useful function in the relevant work. An SDBE performs such a function when the socially and economically disadvantaged owners themselves are actually involved in performing, managing, and supervising a distinct element of the work. To determine whether those requirements are met, the City takes into account the amount of work subcontracted, industry practices, the adequacy of the resources of the SDBE for the work, the qualifications, such as possession of licenses, permits, and professional designations of the socially and economically disadvantaged owners, and other relevant factors. For example, if an SDBE lacks substantially all of the resources equipment and personnel to do the work it shall be presumed not to perform a commercially-useful function. The EBO ordinance includes more points to consider on this issue.

**10. May an SDBE enter into subcontracts?** This question arises in two situations: (1) the bidder is an SDBE and (2) the bidder is subcontracting with an SDBE. Consistent with normal industry practices, an SDBE may enter into subcontracts. If an SDBE subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the SDBE shall be presumed not to be performing a commercially-useful function. The SDBE may present evidence to rebut this presumption to the City.

**11. What does it mean to say that information must be submitted “with the bid”?** Unless bidders are given other written instructions from the City, it means that the information must be in a sealed envelope, delivered to the same place where a bid can be delivered, and before the time set for the bid opening. Unless bidders are given other written instructions from the City, the information can be either in the same envelope as the bid or in a separate envelope. If it is a separate envelope, the outside of the envelope must state the same information that is required on the bid envelope, and that it contains SDBE forms.



**12. When the chart in question 3 says that a form can be submitted 2 days or 5 days after the bid opening, exactly when is it due? Where is it to be submitted?**

The form must be submitted to the City's EOE Department, located at 302 East Pettigrew Street, C-180 or faxed to (919) 560-4513, so that it is received within 2 days or 5 days (whichever applies according to the chart) after the bid opening. If the form is faxed, it must be received before midnight on that 2<sup>nd</sup> or 5<sup>th</sup> day. If it is delivered by any other means, it must be received before 5:00 PM. In counting these 2 days or 5 days, exclude the following: the day of the bid opening, Saturday, Sunday, and holidays observed by city government of the City of Durham. For instance, for a form due in 2 days, if the bid opening is on a Thursday, the due date for the form would be on the following Monday (midnight if faxed, otherwise 5:00 PM). If the day after the bid opening or that Monday is a City holiday, the form would be due on Tuesday. For a form due in 5 days, if the bid opening were on Tuesday, the due date for the form would be on the following Tuesday (midnight if faxed, otherwise 5:00 PM). If any weekday between those Tuesdays is a City holiday or if the Tuesday on which the form would be due is a City holiday, the form would be due on Wednesday. It is best to place the documents inside an envelope, and to write on the outside of the envelope the same information that is required on the bid envelope, and that it contains SDBE forms. Holidays observed by city government are New Years' Day, Dr. Martin Luther King, Jr., Day; Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day; two days (varying from year to year) during the week of Christmas Day; and other times as may be authorized by City Council.

**13. When there are bid alternates how is SDBE participation counted?** The total amount of the award actually made by the City is the key. For instance, assume the following made-up example:

- ◆ Base bid is \$200,000
- ◆ Alternate A bid is \$50,000
- ◆ Alternate B bid is \$20,000
- ◆ Black-owned SDBE goal is 10%.
- ◆ The bidder proposes Black-owned SDBE participation as follows: \$20,000 on the base bid, \$4,000 on Alternate A, and \$10,000 on Alternate B.

In this fictional example, the bidder may or may not meet the goal, depending on the actual award by Council. This chart illustrates:

**AWARD BY CITY COUNCIL**

	<b>Only the base bid</b>	<b>Base bid + Alternate A</b>	<b>Base bid + Alternate B</b>	<b>Base bid + Alternates A &amp; B</b>
<b>Bid total</b>	\$200,000	\$250,000 (200,000 + 50,000)	\$220,000 (200,000 + 20,000)	\$270,000 (200,000 + 70,000)
<b>Total SDBE participation</b>	\$20,000	\$24,000 (20,000 + 4,000)	\$30,000 (20,000 + 10,000)	\$34,000 (20,000 + 14,000)
<b>Black-owned SDBE percentage</b>	10%	9.6%	13.6%	12.6%
<b>Meet 10% Black-owned SDBE goal?</b>	Yes	No	Yes	Yes

**14. How does the City count participation by an SDBE that is not owned by Blacks or women?** An SDBE not owned by Blacks or women may be counted by the bidder towards either goal. The bidder should specify how to count such SDBEs on form E-101.

**15. How is the lease of equipment by an SDBE counted?** If the SDBE leases equipment for the work of the contract, the value of the lease payments is included as part of the SDBE’s participation. However, it is not proper to include such lease payments if they are to be made to the prime contractor or the prime contractor’s “Affiliate.” To understand what an “Affiliate” is, see section 26-3 of the EBO ordinance.

**16. How is the purchase of goods from an SDBE counted?** If the bidder is buying goods from an SDBE, the cost of the goods can be considered SDBE participation only if (a) the SDBE operates or maintains a factory that produces the goods, or (b) the SDBE has an establishment where the goods of the general character described by the specifications or required under the Contract are regularly sold or leased to the public in the usual course of business. If (b) applies, the SDBE’s *principal* business must be selling or leasing those goods and the SDBE must operate under its own name.

**INSTRUCTIONS FOR INDIVIDUAL SDBE BID FORMS FOR CONSTRUCTION**

**Form E-101 (SDBE PARTICIPATION)** On this form, “participation” is the dollar amount of subcontracts for significant goods and services to be used to perform the contract. For instance, if the bidder would enter into subcontract with SDBEs for a total of \$30,000, that would be the SDBE participation amount. The sum of SDBE participation and non-SDBE participation should equal the amount of the bid. Form E-101 is required for the base bid

**Form E-102 (SDBE PARTICIPATION ON BID ALTERNATE)** This form is essentially the same as Form E-101, except that it is used for the alternate bids instead of the base bid. Use a separate Form E-102 for each alternate bid.

**Form E-103** reserved for future use

**Form E-104 (EMPLOYEE BREAKDOWN)** Complete Part A for the primary location where the goods and services that are the subject of the bid are to be made or provided. If the parent company or other locations of the bidder are providing any substantial portion of the goods or services, then the bidder must also complete Part B, for the consolidated company. If the bidder has an EEO-1 Report that provides the

same information as required on the Form E-104, the EEO-1 Report may be used instead. On whether to submit Form E-104, see question 3 above. If you need to submit it, see questions 3 and 11 above on when and where to turn in this form.

**Form E-105 (STATEMENT OF INTENT TO PERFORM AS SUBCONTRACTOR)** The bidder must provide a Form E-105 (Statement of Intent) for each SDBE firm that the bidder would subcontract with if the City awards the contract to the bidder. See questions 3 and 11 above on when and where to turn in this form.

**On Form E-105, what happens if column 2 (dollar amount) disagrees with column 3 (percentage)?**

If there is a conflict between the dollar amount in Column 2 and the percentage of base bid in Column 3, the percentage stated in Column 3 will control. For instance, if Column 2 is \$10,000, Column 3 is 10%, and the base bid is \$200,000, there is an error, because ten percent of \$200,000 is \$20,000, not \$10,000. In that example, the form will be read as a commitment for \$20,000. If the SDBE both (i) is doubtful of its arithmetic *and* (ii) wants Column 2 to control in case of disagreement, it may say that Column 2 will control over Column 3, but to do so, it must write that on Form E-105.

**E-106 (REQUEST TO CHANGE SDBE PARTICIPATION AFTER BID OPENING) When is this form used?** Beginning with the time that the City Manager identifies a bidder as the apparent lowest responsible bidder and continuing as that bidder is awarded the contract and continuing until that bidder/contractor reaches the point of final completion of the work, Form E-106 is to be used when the following occurs: If the bidder/contractor proposes to do any of the following –

- to replace a subcontractor,
- to perform subcontracted work with the bidder/contractor's own forces,
- to increase the quantity of subcontracted work,
- to decrease the quantity of subcontracted work, or
- to change the allocation of work among subcontractors,

then the bidder/contractor must make good-faith efforts to attain the goals that it has shown on the E-101 and applicable E-102 forms, and the bidder/contractor must fill out Form E-106. Substitutions of subcontractors in these circumstances, both before and after the awarding of a contract, are subject to City approval. Consult the City's EO/EA Department on the procedures to follow in order to comply with City Code 26-10(c).

**E-107 (QUESTIONNAIRE ON BIDDER'S GOOD-FAITH EFFORTS)** Bidders that do not attain the SDBE goals have the responsibility to make good-faith efforts and to demonstrate to the City that they have made such efforts. In determining a bidder's good-faith efforts to engage SDBEs, the City Manager shall consider the information supplied by the bidder to answer the questions in Form E-107, , along with other criteria that the City Manager deems proper. Form E-107 is an optional tool that bidders may use to show that they have made good-faith efforts. See questions 3 and 11 above on when and where to turn in this form. Even when this form may be submitted after the bid opening, it cannot include information on efforts made after the bid opening. Even if a bidder does not use Form E-107, the City will nevertheless attempt to answer the questions on the E-107 using good-faith documentation supplied by the bidder. Bidders who do not turn in Form E-107 will still find it helpful to know how the City will determine whether good-faith efforts have been made.

**For Section 2 of Form E-107 --** To make the best good-faith efforts as described under Section 2 on E-107, your firm should have sent a written letter or fax to all SDBEs on the City’s list that perform the kind of work to be subcontracted. Your firm needs to keep a record of all of these attempts to reach SDBEs. That letter would say, in effect, as follows: (Of course, your firm would need to write appropriate words where *italicized instructions* are used below.)

Our firm is interested in bidding on a contract with the City of Durham for [*describe the project*]. We are interested in subcontracting, to your firm, the following work [*describe specific work, for example, painting of interiors of 5 rooms, including prep work; or supplying 20 circuit breakers of type XJE-R or equivalent*]. You may inspect the applicable plans and specifications and descriptions of items to be purchased at our office located at the address shown above, or at the City of Durham’s EO/EA Department, 302 East Pettigrew Street, C-108 , Durham, N.C., 27701 , 919-560-4180[*, or at the AGC plan room in (specify the locations)*]. You may obtain a copy [*explain how and from whom (the City, architect, engineer, etc.) the potential subs can obtain a copy*].

If applicable, tell the SDBEs at which offices of the AGC the plans and specifications may be seen, possibly from the following AGC list.

1100 Euclid Avenue Charlotte, NC 28203-1868 Phone: (704)372-1450	Caswell Bldg., Glenwood Place 3700 National Drive, Ste. 201 Raleigh, NC 27612 Phone: (919)781-3270
4000 Piedmont Parkway, Ste. 400 High Point, NC 27265-0941 Phone: (336)812-3127	2527 S. 17th St. Wilmington, NC 28401 (McGee CADD Reprographics Bldg.) Phone: (910)791-5533
2713 Breezewood Avenue Fayetteville, NC 28303 Phone: (910)484-0184	801 Dickenson Blvd. Greenville, NC 27834 (McGee CADD Reprographics Bldg.) Phone: (252)752-4400
404 Executive Park, Bldg. 3 Asheville, NC 28801-2426 Phone: (828)254-6499	Other AGC locations if they have the plans and specifications

**GOOD-FAITH DOCUMENTATION.** This is not a City form but is documentation to be supplied by the bidder. See the instructions on Form E-107 above. Unless the bidder meets the SDBE goals, the bidder must demonstrate that it made good-faith efforts. To do so, it can use a combination of providing answers to Form E-107 and documentation, such as copies of the notices to SDBEs that are described in question 1(c) on Form E-107. See questions 3 and 11 above on when and where to turn in this form. Even when this documentation may be submitted after the bid opening, it cannot include information on efforts made after the bid opening.

**EQUAL EMPLOYMENT OPPORTUNITY (EEO) STATEMENT.** This is not a City form but is a statement to be supplied by the bidder. The bidder shall state its nondiscrimination employment policy and business practices as of the time of bid opening. Write “EEO” at the top of the first page of your statement. This is different from the EEO-1, which is referred to in the instructions for Form E-104. See questions 3 and 11 above on when and where to turn in this form.

**Form E-101 SDBE PARTICIPATION ON BASE BID**

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

Prequalification number: \_\_\_\_\_ Prequalification expiration date: \_\_\_\_\_

Total dollar amount of SDBE participation in base bid work: \_\_\_\_\_

***For each row, check one column: E, F, or G.***

Column A	Column B	Column C	Column D	Column E	Column F	Column G
Name of proposed subcontractor for base bid work	Goods and services to be provided for base bid work	Subcontract amount, in dollars, for base bid work	Percentage of total base bid (Column C divided by total base bid)	Black-owned SDBE	Women-owned SDBE	Non-SDBE
		\$	%			
		\$	%			
		\$	%			
		\$	%			

*Attach extra sheets as needed. See question 14 under **QUESTIONS AND ANSWERS ON SDBE REQUIREMENTS**, which states that the bidder may check column E or column F for an SDBE that is neither Black-owned nor women-owned.*

Do the above participation amounts meet the goals on this contract, assuming only the base bid is counted?

**Yes**     **No.** If the answer is No: (1) the bidder must have made good-faith efforts; (2) the bidder must provide, within 2 business days after bid opening, documentation of good-faith efforts; and (3) the bidder must sign below.

As an authorized representative of the Bidder, I swear or affirm under penalty of fraud that the good-faith efforts documentation submitted with this bid, pertaining to the base bid and all alternates, if any, is correct and not intended to defraud or mislead. After the contract between the City and the Bidder is signed, except to the extent that the City gives prior written approval for changes, the Contractor agrees that it shall engage the subcontractors listed on this E-101 and on all applicable E-102 forms, to perform the work for the dollar amounts or percentages described on this E-101 and applicable E-102s.

\_\_\_\_\_  
**Signature of individual authorized to sign for Bidder**

**Form E-102 SDBE PARTICIPATION ON BID ALTERNATE**

This form pertains to the following bid alternate: \_\_\_\_\_

*(Specify the alternate, in the way that it is designated in the bid documents)*

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

Total dollar amount of SDBE participation in work on this alternate: \_\_\_\_\_

***For each row, check one column: E, F, or G.***

Column A	Column B	Column C	Column D	Column E	Column F	Column G
Name of proposed subcontractor for this alternate	Goods and services to be provided for this alternate	Subcontract amount, in dollars, for this alternate	Percentage of total bid for this alternate (Column C divided by total bid for this alternate)	Black-owned SDBE	Women-owned SDBE	Non-SDBE
		\$	%			
		\$	%			
		\$	%			
		\$	%			

*Attach extra sheets as needed. . See question 14 under **QUESTIONS AND ANSWERS ON SDBE REQUIREMENTS**, which states that the bidder may check column E or column F for an SDBE that is neither Black-owned nor women-owned.*

Do the above participation amounts meet the goals, if you consider only this alternate and not the base bid work?  **Yes**  **No**. If the answer is No: (1) the bidder must have made good-faith efforts; (2) the bidder must provide, together with this bid, documentation of good-faith efforts; and (3) the bidder must sign Form E-101 (SDBE PARTICIPATION ON BASE BID).

## E-104 EMPLOYEE BREAKDOWN

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

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

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

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

**Form E-105 STATEMENT OF INTENT TO PERFORM AS SUBCONTRACTOR**

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

Name of **Project**: \_\_\_\_\_

The undersigned firm is certified by the City of Durham as an SDBE.

The undersigned SDBE represents that it will enter into a formal contract with the Bidder to perform the following work in connection with the Project, in the dollar amount or percentage listed below, if the Bidder signs a contract with the City of Durham for the Project.

Describe the work in sufficient detail so that it can be determined whether the SDBE's work is a substantial and necessary part of the Project.

<b>Column 1</b> - description of work to be done by undersigned SDBE	<b>Column 2</b> -dollar amount of the proposed subcontract between the bidder and the undersigned SDBE	<b>Column 3</b> - percentage of Bidder's base bid represented by the proposed subcontract between the Bidder and the undersigned SDBE

The undersigned SDBE will be ready to begin work on the subcontract on the following date:

Name of SDBE: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Address, including Zip Code, of SDBE: \_\_\_\_\_ Fax No. \_\_\_\_\_

\_\_\_\_\_  
**Signature of authorized representative of SDBE**

Title of the person who signed above: \_\_\_\_\_

What person with the SDBE should the City contact with questions about this form or the proposed subcontract? \_\_\_\_\_

Name of individual: \_\_\_\_\_ Telephone No. \_\_\_\_\_

Title of individual: \_\_\_\_\_

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

By submitting this form to the City of Durham, the Bidder represents that if the Bidder signs the contract with the City of Durham for the Project, the Bidder will enter into the subcontract described above with this SDBE.



**E-106 REQUEST TO CHANGE SDBE PARTICIPATION AFTER BID OPENING**

Project: \_\_\_\_\_  
Name of bidder or contractor: \_\_\_\_\_  
Name and title of representative of bidder or contractor: \_\_\_\_\_  
Address (including Zip Code): \_\_\_\_\_  
Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Total amount of original contract, before any change orders or amendments: \_\_\_\_\_  
Total amount of the contract, including all approved change orders and amendments to date, but not counting the changes proposed in this form: \_\_\_\_\_  
Dollar amount of changes proposed in this form: \_\_\_\_\_  
The proposed change (*check one*)    **increases**       **decreases**    the dollar amount of the bidder's/contractor's contract with the City.  
Does the proposed change decrease the SDBE participation? (*check one*)    **yes**       **no**  
If the answer is **yes**, complete the following:

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

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

Is it proposed to eliminate this subcontract?    yes    no  
If the subcontract is to be increased or reduced, describe the nature of the change (*such as adding \$5,000 in concrete work and deleting \$7,000 in grading*): \_\_\_\_\_

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

This subcontractor is (*check one*):  
 1. City-certified Black-owned SDBE  
 2. City-certified women-owned SDBE  
3. City-certified SDBE that is neither Black-owned nor women owned, but to be credited as  
3(a)  Black-owned SDBE    3(b)  women-owned SDBE  
 4. not a City-certified SDBE

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

Name of subcontractor for the new work: \_\_\_\_\_  
Goods and services to be provided by this proposed subcontract: \_\_\_\_\_

Dollar amount proposed of this proposed subcontract: \_\_\_\_\_  
This subcontractor is (*check one*):

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

Add additional sheets as necessary.

This form is used only if the conditions described in the instructions are present.

## E-107 QUESTIONNAIRE ON BIDDER'S GOOD-FAITH EFFORTS

Name of Bidder:

---

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

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

### 1. SOLICITING SDBEs.

(a) Did your firm solicit, through all reasonable and available means, the interest of all SDBEs certified (that is, in the City's database) in the scopes of work of the contract?  **yes**  **no**

(b) In such soliciting, did your firm advertise?  **yes**  **no** Are you attaching copies to this questionnaire, indicating the dates and names of newspaper or other publication for each ad if that information is not already on the ads?  **yes**  **no**

(c) In such soliciting, did your firm send written (including electronic) notices or letters? Are you attaching one or more sample notices or letters?  **yes**  **no**

(d) Did your firm attend the pre-bid conference?  **yes**  **no**

(e) Did your firm provide interested SDBEs with timely, adequate information about the plans, specifications, and requirements of the contract?  **yes**  **no**

(f) Did your firm follow up with SDBEs that showed interest?  **yes**  **no**

(g) With reference to the SDBEs that your firm notified of the type of work to be subcontracted -- Did your firm tell them?

(i) the specific work your firm was considering for subcontracting?  **yes**  **no**

(ii) that their interest in the contract is being solicited?  **yes**  **no**

(iii) how to obtain and inspect the applicable plans and specifications and descriptions of items to be purchased?  **yes**  **no**

### 2. BREAKING DOWN THE WORK.

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

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

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

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

*See next page for remaining questions.*

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

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

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

(a) Did your firm or the City require any subcontractors to have bonds, lines of credit, or insurance?

**yes**  **no** (Note: In most projects, the City has no such requirement for *subcontractors*.)

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

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

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

**6. USING OTHER SERVICES.**

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

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

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# APPENDIX C



## **SMALL DISADVANTAGED BUSINESS ENTERPRISE (SDBE) REPORTING FORMS**

**CONTRACT: SD-2012-03**

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# CITY OF DURHAM SUBCONTRACTOR MONTHLY RECORD OF PAYMENT REPORT

<b>THIS DOCUMENT MUST REFLECT ALL SUBCONTRACTORS &amp; MUST BE SUBMITTED WITH MONTHLY INVOICE FOR PAYMENT</b>	
<b>PROJECT NAME: CONTRACT#:</b>	<b>DATE FORM SUBMITTED:</b>
<b>COMPANY NAME:</b>	<b>WORK PERIOD ENDING:</b>
<b>FEDERAL TAX ID#:</b>	<b>ADDRESS:</b>
	<b>CONTACT PERSON:</b>

Subcontractor/Vendor ID (Street Address/Zip/Telephone)	Indicate Ownership Status	Description Of Work	Total Sub- Contract Amount	Amount Paid For The Period	Total Amount Paid To-Date	Percentage Of Work Completed	Scheduled Start Date	Scheduled End Date
<b>Total M/SDBE Subcontracts Awarded/%</b>			%	\$	\$	%	%	%
<b>Total M/SDBE Dollars Paid-To-Date/%</b>			%	\$	\$	%	%	%
<b>Total Non-Minority Subcontracts Awarded/%</b>			%	\$	\$	%	%	%
<b>Total Non-Minority Dollars Paid-To-Date/%</b>			%	\$	\$	%	%	%

The undersigned certifies that the information recorded above is correct, and that each of the representations set forth above is true. The undersigned further acknowledges that any misrepresentation hereon may result in termination of contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

**Company Representative** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

SMRPR 10/01/03

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# APPENDIX D



## **SMALL DISADVANTAGED BUSINESS ENTERPRISE (SDBE) CONTRACTOR PREQUALIFICATION FORMS**

**CONTRACT: SD-2012-03**

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# CITY OF DURHAM SMALL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

## PREQUALIFICATION FORM

Revised 6/08



Mailing Address:

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

Street Address:

302 East Pettigrew Street, C-180  
Durham, North Carolina 27701

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

## APPLICATION FOR PREQUALIFICATION

The answers to the following questions shall be used to determine the qualifications of my organization to bid upon construction projects undertaken by the City. You may submit an AIA Contractor's Qualification Statement in lieu of questions 1-23. Questions 24-30 must be submitted with the Statement.

1. Name of Firm: \_\_\_\_\_

2. Business Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_

3. Telephone Number: (    ) \_\_\_\_\_ Fax Number: (    ) \_\_\_\_\_

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

4. Contact Person : \_\_\_\_\_ Title: \_\_\_\_\_

5. The organization is requesting prequalification as:

Corporation                       Limited Partnership                       General Partnership

Sole-Proprietorship               Limited Liability Company               Other

6. If a corporation, Limited Liability Co., or Limited Partnership, indicate the following:

Date of Incorporation or other official commencement of status \_\_\_\_\_

State of Incorporation or other official commencement of status \_\_\_\_\_

7. Internal Revenue Service ID No: \_\_\_\_\_

(Employer ID/SSN): \_\_\_\_\_

8. Year business established by current owner: \_\_\_\_\_

9. Are you authorized to do business in North Carolina as well as locally, including all business licenses?

Yes  No  (Attach copies)

10. List North Carolina Contractor's License Number, classification and Limitation:

License Type	License No.	Classification	Limitation

11. Indicate the type(s) of work for which the business would like to qualify to perform:

---

---

12. How many years has your organization been in business as a contractor under your present name?

---

13. Has your organization been in business under another business name? **Yes**  **No**   
(If so, please list any former names and addresses. \_\_\_\_\_)

---

14. List the construction experience of the management personnel including superintendents of your organization.

Name	Present Position	Years of Construction Experience	Type of Work	In What Capacity

15. Has your organization failed to complete any work awarded to you? **Yes**  **No**   
(If so, please explain. Attach additional sheets if necessary.)

---

---

16. Has any officer or partner of your organization ever been an officer or partner of some other organization that failed to complete a construction project? **Yes**  **No**  (If so, please explain)

---

---

17. Has your organization ever been denied prequalification in this state or any other state under this name or any other name?

**Yes**  **No**  (If so, name the state(s), and explain reasons for denial)

---

---

18. Has your organization ever been disqualified or removed from a bidding list in this state or any other state?  
 Yes  No  (If so, indicate state(s) and explain reason for disqualification)

---



---

19. List major projects which show the various types of work completed by your organization in the past five (5) years and/or presently under construction. (Attach separate sheet if necessary)

Name and Address of Owner	Name and Location of Project	Contract Amount	Was contract completed on time?	Were there any penalties imposed?	Were there any liens, claims or stop notices filed against the job?

20. List major Equipment owned. (Attach separate sheet if necessary)

QUANTITY	ITEM	SIZE OR CAPACITY	CONDITION	YEARS OF SERVICE

21. Name of Bonding Company: \_\_\_\_\_

22. Maximum Current Bonding Level: \_\_\_\_\_

23. Attach a current financial statement including a balance sheet showing the following items:

- a) Current assets
- b) Net fixed assets
- c) Other assets
- d) Current liabilities
- e) Other liabilities



24. Does your organization utilize minority, women or SDBE subcontractors on contracts that are not let by the City of Durham?

Yes  No  (If yes, list three contracts and the minority, women or SDBE firms used by your organization on these contracts)

Name and Location of Project	SDBE Firm Utilized	Dollar Amount of Participation	Contact Person and Telephone No.

25. For the contracts referenced above, did your organization make good faith efforts to assist interested minority, women and SDBEs in obtaining bonding, lines of credit, or insurance if such assistance was necessary?

Yes  No

26. Does your organization make voluntary efforts to increase the number of minority, female and socially and economically disadvantaged individuals at higher skill and responsibility levels within your own organization? Yes  No

27. Does your organization effectively use the services of available minority, women and socially and economically disadvantaged community organizations; contractor groups; local, state, and Federal minority/women or small disadvantaged business assistance offices; and other organizations which provide assistance in recruitment and placement of SDBEs? Yes  No

28. Does your organization participate in minority/women apprenticeship or on-the-job training programs?

Yes  No  (If yes, attach a copy of your company's program)

29. Attach a written narrative of any voluntary good faith efforts your organization proposes to undertake during the upcoming year to provide equitable participation of minority and women employees and subcontract.

30. The following documents must be submitted with your application: (Forms Enclosed)

(You may submit your organization's EEO Policy in lieu of this statement)

- a) Employee Breakdown
- b) Equal Employment Opportunity Statement

## EMPLOYEE BREAKDOWN

### Part A – Employee Statistics for the Primary Location

M-----a-----l-----e-----s    F-----m-----a-----l-----e-----s

Employment Category	Total Employees	Total Males	Total Females	White	Black	Hispanic	Asian or Alaskan Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project Manger													
Professional													
Labor													
Clerical													
Totals													

### Part B – Employee Statistics for the Consolidated Company *(See instructions for this form on whether this part is required.)*

M-----a-----l-----e-----s    F-----m-----a-----l-----e-----s

Employment Category	Total Employees	Total Males	Total Females	White	Black	Hispanic	Asian or Alaskan Islander	Indian or Alaskan Native	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaskan Native
Project Manger													
Professional													
Labor													
Clerical													
Totals													

**EEO-1 Report may be submitted in lieu of this form**

# Equal Employment Opportunity Statement

# AFFIDAVIT

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(printed name)

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

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

\_\_\_\_\_ personally appeared before me this day and, after having been

duly sworn, stated that he or she is \_\_\_\_\_

(title)

in \_\_\_\_\_ ; that he or she was

(name of Applicant)

authorized to sign the foregoing application on behalf of said Applicant, and that the statements contained in the foregoing Application for Prequalification are true to the best of his or her knowledge and belief. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_

Notary Public

# APPENDIX E

DURHAM



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CITY OF MEDICINE

**NON-COLLUSION AFFIDAVIT FORMS FOR  
BIDDER AND SUBCONTRACTOR**

**CONTRACT: SD-2012-03**

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**NON-COLLUSION AFFIDAVIT OF BIDDER**

State of \_\_\_\_\_ County of \_\_\_\_\_  
\_\_\_\_\_, being first duly sworn, deposes and says that:

- 1. He is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid;
- 2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- 3. Such Bid is genuine and is not a collusive or sham Bid;
- 4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from Bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy connivance or unlawful agreement any advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and
- 5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_  
\_\_\_\_\_  
Title

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_  
Title

My Commission Expires \_\_\_\_\_

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**NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR**

State of \_\_\_\_\_ County of \_\_\_\_\_  
\_\_\_\_\_, being first duly sworn, deposes and says that:

- 1. He is \_\_\_\_\_ of \_\_\_\_\_, hereinafter referred to as the "Subcontractor";
- 2. He is fully informed respecting the preparation and contents of the Subcontractor's Proposal submitted by the Subcontractor to \_\_\_\_\_, the Contractor for certain work in connection with the \_\_\_\_\_ Contract pertaining to the Project in \_\_\_\_\_ (City or County and State);
- 3. Such Subcontractor's Proposal is genuine and is not a collusive or sham proposal;
- 4. Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, directly or indirectly, sought by unlawful agreement or connivance with any other Bidder, firm or person to fix the price or prices in said Contractor's Proposal, or to fix any overhead, profit or cost element of the price or prices in said Contractor's Proposal, or to secure through collusion, conspiracy connivance or unlawful agreement any advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and
- 5. The price or prices quoted in the Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) \_\_\_\_\_

\_\_\_\_\_  
Title

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Title

My Commission Expires \_\_\_\_\_

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# APPENDIX F

DURHAM



1869  
CITY OF MEDICINE

**BID BOND FORMS**

**CONTRACT: SD-2012-03**

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# APPENDIX G

DURHAM



1869  
CITY OF MEDICINE

## PERFORMANCE BOND AND PAYMENT BOND FORMS

**CONTRACT: SD-2012-03**

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# APPENDIX H

DURHAM



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CITY OF MEDICINE

## REIMBURSABLE SALES AND USE TAX STATEMENT FORMS

**CONTRACT: SD-2012-03**

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# APPENDIX I

DURHAM



1869  
CITY OF MEDICINE

## CONTRACT SAFETY RECORD INFORMATION

**CONTRACT: SD-2012-03**

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