



**Unified Development Ordinance (UDO)  
Request for Proposal  
RFP# 23-24-01**

**Proposal Due Date:  
Friday, September 1, 2023, @ Noon  
Eastern Standard Time (EST)**

**Contact Person: Wanda House  
Title: Financial Services Manager  
Phone Number: 252-329-4862  
Email Address: [whouse@greenvillenc.gov](mailto:whouse@greenvillenc.gov)**

Date: July 24, 2023

Subject: Unified Development Ordinance Request for Proposal

Contact: Wanda House, Financial Services Manager

The City of Greenville Planning and Development Services Department is now accepting proposals for a Unified Development Ordinance (UDO). The requirements for submitting a Proposal are stated in the attached Request for Proposal (the "RFP").

Sealed proposals endorsed Unified Development Ordinance (UDO) to be furnished to the City of Greenville (the "City") will be received by the Planning and Development Services Department at 201 W. 5<sup>th</sup> St., Greenville NC, until Friday, September 1, 2023 at 12:00 Noon EST. Proposals must include ten (10) physical printed copies and one (1) searchable PDF version on a USB Drive.

The City reserves the right to reject any or all proposals.

This RFP outlines a description of the services sought and the required documents interested firms submit must in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

**Request for Proposals**  
**Attention: Wanda House, Financial Services Manager**  
**[Name of Company Submitting Proposal]**  
**UDO / RFP**  
**RFP# 23-24-01**

*Proposals are limited to twenty (20) pages **(not inclusive of the cover letter or appendices)** and shall be typed on 8 ½"x11" sheets, single spaced, one sided. Proposals containing more than twenty (20) pages will not be considered.*

**Proposals submitted after this deadline or to any location other than that listed above will not be considered. Firms submitting fewer copies than required will not be considered.**

Written questions concerning this RFP may be submitted until 5:00 PM Eastern Standard Time (EST), Monday, August 21, 2023 to Chantae Gooby, Chief Planner by email only at [cgooby@greenvillenc.gov](mailto:cgooby@greenvillenc.gov). All questions with written responses will be placed on line at the City's website. Please insert **RFP# 23-24-01** in the subject line.

## **SECTION ONE**

### **GENERAL INSTRUCTIONS**

**1. READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this RFP document.

**2. LATE PROPOSALS:** Late proposals, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure delivery at the designated office by the designated time.

**3. ACCEPTANCE AND REJECTION:** The City reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Vendor, to accept any item in the proposal.

**4. WITHDRAWAL OF PROPOSAL:** No proposal may be changed or withdrawn after the time of the proposal due date. Any modifications or withdrawals requested before this time shall be acceptable only when such request is made in writing to the Financial Services Manager.

**5. CONFLICT OF INTEREST:** Each proposer shall affirm that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.

**6. LOCAL PREFERENCE:** The City of Greenville has adopted a Local Preference Policy. Questions about the Local Preference Policy (LPP) should be directed to Wanda House, Financial Services Manager at 252.329.4862. For more information, please see the City of Greenville's webpage at <http://www.greenvillenc.gov/government/financial-services/purchasing>.

**7. TAXES:** Sales taxes may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.

**8. CITY RIGHTS AND OPTIONS:** The City, at its sole discretion, reserves the following rights:

- To supplement, amend, substitute or otherwise modify this RFP at any time.
- To cancel this RFP with or without the substitution of another RFP.
- To take any action affecting this RFP, this RFP process, or the Services subject to this RFP that would be in the best interests of the City.
- To issue additional requests for information or clarification from Offerors or to allow corrections of errors or omissions.
- To require one or more Service Providers to supplement, clarify or provide additional information in order for the City to evaluate the Responses submitted.
- To negotiate a contract with a Service Provider based on the information provided in response to this RFP.

**9. PUBLIC RECORDS:** Any material submitted in response to this RFP will become a “public record.” Proposers must claim any applicable exemptions to disclosure provided by law in their response to this RFP. Proposers must identify materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. The City reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

**10. ACCURACY OF RFP AND RELATED DOCUMENTS:** Each Company must independently evaluate all information provided by the City. The City makes no representations or warranties regarding any information presented in this RFP, or otherwise made available during this procurement process, and assumes no responsibility for conclusions or interpretations derived from such information. In addition, the City will not be bound by or be responsible for any explanation or conclusions regarding this RFP or any related documents other than those provided by an addendum issued by the City. Companies may not rely on any oral statement by the City or its agents, advisors, or consultants.

If a Company identifies potential errors or omissions in this RFP or any other related documents, the Company should immediately notify the City of such potential discrepancy in writing. The City may issue a written addendum if the City determines clarification necessary. Each Company requesting an interpretation will be responsible for delivering such requests to the City's designated representative.

**11. EXPENSE OF SUBMITTAL PREPARATION:** The City accepts no liability, and Companies will have no actionable claims, for reimbursement of any costs or expenses incurred in participating in this solicitation process. This includes expenses and costs related to Proposal submission, submission of written questions, attendance at pre-proposal meetings or evaluation interviews, contract negotiations, or activities required for contract execution.

**12. PROPOSAL BINDING:** This proposal is binding for a period of one hundred and twenty (120) days.

## **SECTION TWO**

### **PROPOSAL**

#### **1. Introduction**

This RFP is to assess the City of Greenville's current zoning and subdivision ordinances and develop a comprehensive Unified Development Ordinance (UDO). The consultant will be expected to work closely with and be responsive to the City staff, a Unified Development Ordinance (UDO) Task Force, and the Planning and Zoning Commission on developing a process that will result in the development of an effective UDO. This will involve holding working meetings with and educating the City Council, Planning and Zoning Commission, staff, developers, other stakeholders, and the general public about why the UDO is necessary, how the changes will benefit the city, and the process for developing and implementing the UDO.

#### **2. Background**

The City of Greenville's zoning and subdivision ordinances provide regulations for the City as well as its extraterritorial jurisdiction, and it includes conventional zoning provisions that date as far back as the 1990's. A significant amount of time has passed since the City of Greenville has had a comprehensive review and update of its zoning and subdivision ordinances. Since the last comprehensive review and revision, new land use types, zoning approaches, planning theory and best practices have resulted in the City recognizing a revision is necessary. The City is now looking for one or more service providers that will best meet the City's needs for a comprehensive review and re-write to update both ordinances, clean up / correct needed language, and to convert to a UDO format to meet the current development standards needed relative for the City of Greenville's jurisdiction.

#### **3. Description of Services (Scope of Work)**

##### **A. Goals / Objectives to Incorporate into the Unified Development Ordinance**

The City's new UDO should feature the following:

- A user-friendly format accessible and understandable by a wide variety of audiences with "plain language" in place of jargon/industry language, where possible, while still maintaining precision.
- Inclusion of innovative and user-friendly diagrams, graphics, photographs, tables, and flow-charts to complement and minimize narrative.
- Consistency of, and appropriate references to all associated regulations within North Carolina General Statutes, as well as applicable federal statutes, pertaining to zoning, land use, signage, subdivision, environmental protection, permitting, administration, appeals/variances, special uses and enforcement. A NC licensed attorney with land use subject matter expertise should be part of the working consultant team to provide a legal review and ensure compliance with applicable law and regulations.

- Clearly defined procedures for development application reviews, including approval process of preliminary plats from external approval (P&Z) to internal approval (Staff).
- Definitions that reflect current and emerging planning practice and usage.
- Align the UDO with the goals and action steps outlined in the award-winning *Horizons 2026: Greenville's Community Plan*, including:
  - Utilize the plan's stated Principles and the Future Land Use and Character Map to evaluate the array of 30 existing zoning district classifications and several overlay districts to decrease the number of districts while retaining or modifying clearly useful classifications and minimizing creation of non-conforming uses.
  - Anticipate discussion of the desire for enhanced building design standards and efficient lot type standards directly with the development community.
- Anticipate inclusion of conditional zoning: develop standards and regulations for review and inclusion.
- Review all existing zoning classifications with recommendations for additions, deletions and modifications, including evaluation of special uses for reclassification as permitted uses with added standards for inclusion in the UDO's Use Table.
- Updates to the Table of Uses to incorporate existing, and new and emerging uses that may bring value to the City. Clarify and provide a written opinion for administrative determination allowances for minor adjustments to approved special use permits, variances, site plans, and preliminary subdivision plats.
- Review and update the sign regulations and;
  - Address any shortcomings regarding *Reed v. Gilbert* and *Austin v. Reagan National Advertising*, and other relevant cases.
  - Add graphics and images.
  - Address electronic/digital signage (copy change, maximum luminance, and other performance standards, etc.).
- Review and update, as may be necessary, mixed-use development standards.
- Evaluate, proposed development regulations for accessory dwelling units in anticipation of pending State Legislation, specifically House Bill 409 (Senate Bill 374).
- Review and update noise standards and enforcement procedures and assess ways for mitigating noise with key stakeholders, e.g., Greenville Police Department.
- Review and update lighting standards, i.e., exterior and interior lighting as it relates to illumination into the public right of way, including but not limited to sidewalks and streets.
- Review and update, as may be necessary, food truck regulations currently under development by staff.

- Modernize parking regulations i.e., mixed use, shared, structured, and location, bicycle parking, and provisions for EV charging stations, etc.
- Augment existing vegetation standards with graphics and images and clarify standards of maintenance of installed vegetation.
- Review, update, incorporate, and/or reference City Code, Title 9, in the UDO. This includes but is not limited to, Chapters, 2, 3, 4, 5, 6, 7, 8 and 9, and the Manual of Standard Design and Details.

## B. Expected Deliverables

The following deliverables are expected to be provided to planning staff, UDO Task Force, and the Planning and Zoning Commission, and the City will work with the selected consultant to finalize tasks necessary to achieve the project expectations:

- Create a project plan and provide project management, based on the Goals and Objectives / Scope of Work (outline beginning on pg. 3 of this package), including a clear schedule of deliverables, resource allocation, and budget for:
  1. Evaluation of the City's existing Code, documents, and data;
  2. Identification of potential solutions and approaches to make the regulations and review processes more responsive to current development practices and emerging trends; and
  3. Development of a draft UDO for comments and endorsement, and adoption of a final UDO.
- Develop and provide an extensive public engagement and communications plan, including goals and objectives, diverse platforms, public engagement summaries (themes of interviews and interactions, demographic representation and findings), a schedule of public engagement activities and suggested stakeholder and workgroup members.
- Provide minutes relative to all meetings held. Review the minutes and provide ongoing updates as needed/requested to keep all parties up to date of the UDO topics and processes.
- Present, provide presentation materials and incorporate feedback during the formal adoption process with the Planning and Zoning Commission and City Council.
- Provide monthly status reports on project progress for internal review and evaluation.
- Submit a draft UDO: All compiled data generated over the course of the project, and final documents in a file format that the City has the ability to review and amend for submission to the consultant to update for preparation of a final UDO.
- Complete a final draft UDO through adoption: Final design files should include all sections of the ordinance, and be simple to update over the life of the ordinance and not dependent on specialized software of third-party platforms. This includes any text and graphic files (i.e. illustrations, graphics, flowcharts, dashboards, tables, etc.), which, at minimum, should be provided in the following formats:
  1. Digital PDF version that is word searchable and able to be hosted on the City's website and/or codified in Title 9 of the City Code of Ordinances by American Legal.
  2. Two (2) printed copies.

3. The City of Greenville shall be provided sole property rights to all manual and electronic originals.
- Host a project website through adoption of the UDO, and provide technical assistance, as necessary, for one year following.
  - The overall UDO process will be complete when it is adopted by the City Council; however, if any edits are included with the adoption of the UDO, the process is complete when an updated version is provided to staff following UDO adoption.
  - Establish a schedule of meetings and/or presentations at major milestones in the project, and at minimum, provide presentations on the following:
    1. Meet with Stakeholders, staff and UDO Task Force members (UDOTF)
    2. Major milestones –
      - Project kick-off meeting to provide an overview of the UDO development process;
      - Showcase highlights of major changes in the City's land use regulations; and
      - Provide instruction and training on how to use the UDO.
    3. Conduct several public charrettes/meetings to discuss sensitive public interest topics and garner feedback: i.e., parking, lighting, noise, etc.
    4. Follow-up and update to staff and UDOTF
    5. Initial draft to staff and UDOTF
    6. Second draft review (if needed) to staff and UDOTF
    7. Draft presented to Planning and Zoning Board
    8. Final draft review with staff and UDOTF
    9. Presentation of Final Draft to City Council at Workshop
    10. Presentation of final draft to Public
    11. Text Amendment final draft Public Hearing at P&Z
    12. Text Amendment final draft Public Hearing at Council

### C. Expected City Staff Responsibilities

The City staff will fulfill the following roles during the UDO development project:

- Designate a project coordinator to serve as the liaison between the City and consultant.
- Identification of UDO Task Force participants for consultant to coordinate the organization and on-going facilitation of the stakeholder group.
- Assist with coordinating project meetings.



- Develop notices and advertising for project meetings and formal adoption of the UDO.
- Assist with preparation of the revised zoning map in consultation with the consultant.

#### 4. Terms of Agreement

Should your submitted RFP be selected, work shall be completed and all public meetings/analysis/assessment/ proposed UDO information shall be submitted within twenty-four (24) months from the date of an approved contract. This project will require multiple visits to our jurisdiction and both (in-person and virtual meetings) with members of the development community, City staff and management, general public and other notable stakeholders. Please include information outlining your thoughts/plans on the number of visits projected and brief outline/agenda of the visits. All schedules and meetings are to be planned and coordinated by awarded RFP firm.

#### 5. Payment

- Payment of 30% of the RFP price after satisfactory completion of Evaluation of the City's existing Code, documents, and data; Identification of potential solutions and approaches to make the regulations and review processes more responsive to current development practices and emerging trends as decided by the Director of Planning and Development Services.
- Payment of 30% upon satisfactory completion of scheduled dates and agenda for public meetings, conducting the public meetings, compiling/review data and comments from meetings, and providing a draft UDO to the Planning and Zoning Commission.
- Payment of 20% after Presentation of Final Draft to the public
- Final Payment of 20% after satisfactory completion of a final assessment of all RFP items resulting in a full UDO adoption for the City of Greenville.

Responders may submit alternate payment schedule for consideration.

#### 6. Proposal Contents

The proposal shall provide elements listed below along with any supporting documentation you feel is needed and will contribute to the evaluation of the proposal. However, under no circumstances should proposals exceed twenty (20) pages **(not inclusive of the cover letter or appendices)**, typed on 8 ½"x11" sheets, single spaced, one sided.

- A. Letter of Transmittal - the submission must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents. The cover letter shall provide the name, address, telephone and facsimile numbers of the Service Provider along with the name, title, address, email address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall present the Service Provider's understanding of the Project, a summary of the approach to be undertaken to perform the Services, as well as a summary of the costs to provide the Services. Additionally, we request that firms identify if they are a certified Historically Underutilized Business (HUB) by the NC HUB Office, and this letter should acknowledge any addenda presented by the City of Greenville. All addenda will be issued via the City's Purchasing Website at

- B. Firm's Background and History – provide a brief summary of your firm, including number of years' experience, ownership structure, firm size, competitive advantages, any potential conflicts of interests, locations of offices, current firm capacity to accept this project, and any claims, litigation or other legal/regulatory proceeding, investigation or disciplinary action related to services to be provided herein.
- C. Qualifications - describe your firm's qualifications to complete this project, including detail to describe factors that make your firm ideally or uniquely suited to perform the services and description of similar projects completed. Highlight the project manager's experience on relevant projects as well as their availability to manage this multi-year project.
- D. Project Team Members - provide a team organizational chart capturing all team members' names and titles, including a land use attorney and any sub-consultants, their roles and responsibilities in this project and specific area expertise, level of involvement by percentage in this project, and brief background of their work with your firm.
- E. Project Approach- provide a detailed project approach and process description that explains the steps your company will take to meet the goals and objectives and ensures the provision of services outlined in number 3, *Description of Services (Scope of Work) (pg. 5)*, runs smoothly. Describe how the Consultant team will work with the City to develop an overall plan strategy that includes a significant amount of public outreach, creates opportunities to test applicability on local sites, clearly delineates opportunities for staff involvement and staff created deliverables and provides a completed end product and methods to implement. Also, consider how other local non-profit and community organizations as well as educational institutions can support the initiative, where permissible.
- F. Number of Anticipated Visits- include information outlining your perspective and strategy on the number of visits projected and brief outline/agenda regarding each visit. Indicate the costs for additional visits if the City asks for same.
- G. Projected Timeline- provide a project schedule to accomplish the details/task as outlined in number 3, *Description of Services (Scope of Work)*.
- H. Past Record of Performance and References - provide a list of current and past clients (within the past five (5) years), including pertinent contact information name, phone number and email address, and a summary of services provided for at least three (3) similar projects. Identify clients that are similar to the City of Greenville (i.e., size, complexity, location) and provide highlights of the project's issues, solutions, complexities and approach to resolve. Also, include links to completed documents and please indicate whether or not the schedules were met, deliverables were on time and the total performance was considered satisfactory.
- I. Cost/Budget – Individual itemization can be provided; however, a final “all costs” shall be shown as a lump sum fee, including travel. Provide a per visit cost for *additional* site visits requested by the City. The City is not obligated for expenses not specifically listed.

## **7. Questions**

Questions must be asked in writing via email addressed to Chantae Gooby, Chief Planner at [cgooby@greenvillenc.gov](mailto:cgooby@greenvillenc.gov) with the Unified Development Ordinance (UDO) RFP# 23-24-01 mentioned in the subject line of the email. All questions must be submitted by Monday, August 21, 2023 by 5:00 PM (EST). Answers will be provided via an addendum posted on the City's website.

## **8. SELECTION PROCESS**

Following is a general description of the selection process:

- All qualified firms who submit responsive, responsible proposals will be considered.
- The proposals received in response to this solicitation will be evaluated and ranked by the Evaluation Committee in accordance with the process and evaluation criteria contained below.
- Responses will be evaluated in light of the material and substantiating evidence presented in the response, and not on the basis of what is inferred.
- After thoroughly reading and reviewing this solicitation, each Evaluation Committee member shall conduct their independent evaluation of the proposals received and grade the responses on their merit in accordance with the evaluation criteria set forth below.
- The Evaluation Committee may, at the City's discretion, shortlist a minimum of two (2) firms to be interviewed. IF APPLICABLE, dates of shortlisting and dates for interviews will be provided to those identified on the shortlist.

## **9. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION**

It is the policy of the City to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Women Business Enterprise (MWBE) Plan and subsequent program, outlining verifiable goals.

The City has established a 4% Minority Business Enterprise (MBE) and 4% Women Business Enterprise (WBE) goal for the participation of MWBE firms in supplying goods and services for the completion of this project. All firms submitting qualifications and/or proposals agree to employ "good faith efforts" towards achieving these goals and supply other information as requested in the "MWBE Professional Services Forms" included in Appendix B. Failure to complete the MWBE forms may be cause to deem the submittal nonresponsive.

Questions regarding the City's MWBE Program should be directed to the MWBE Office at (252) 329-4462.

## **10. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**

The City of Greenville is an equal opportunity employer and strictly prohibits discrimination against any employee or applicant for employment because of the individual's race, color, religion, age,

gender, disability, national origin, genetic information, sexual orientation, gender identity/reassignment or expression, military or veteran status, marital status, or any characteristic protected by applicable law.

#### **11. TITLE VI NONDISCRIMINATION NOTIFICATION**

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

#### **12. SELECTION CRITERIA**

Criteria for the selection of the Consultant will include the following and their respective weights:

<b>Content</b>	<b>Available Points</b>
Letter of Transmittal	5 points
Firm's Background and History	10 points
Qualifications	25 points
Project Approach	35 points
List of References	10 points
Cost/Budget	10 points
Local Vendor	5 points
<b>Total</b>	<b>100 points</b>

North Carolina firms qualified to do the required work will be given priority consideration. A North Carolina firm is a firm that maintains an office in North Carolina staffed with an adequate number of employees judged by the City/Department to be capable of performing a majority of the work required.

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

An interview phase may or may not be a part of selection for this project. If an interview phase of the selection process is deemed necessary after the initial review of proposals, interviewees will be evaluated based on the following criteria:

1. Overall quality of project presentation
2. Team dynamic
3. Quality of answers provided during the interview

Once a preferred firm is chosen, the City will work with the project team to develop a more detailed scope of services to be included in the project contract. The City reserves the right to negotiate a contract, including the final scope of work and contract price, with any respondent or other qualified party.

### **13. SUBMISSION SCHEDULE AND KEY DATES**

<b>Event</b>	<b>Date and Time</b>
Issuance of RFP/RFQ	July 24, 2023
Deadline to Submit Questions	August 21, 2023 (5:00 PM EST)
Answers to Questions Provided	August 28, 2023
Proposals Due	September 1, 2023 (by Noon EST)
Selection	October 2023 (Projected)
Anticipated Project Start Date (Notice to Proceed)	Mid-January, 2024

## **ATTACHMENT A**

### **GENERAL TERMS AND CONDITIONS**

The contract terms provided herein are not exhaustive but shall become a part of any contract issued as a result of this solicitation. Any exceptions to the contract terms must be stated in the submittal. Any submission of a proposal without objection to the contract terms indicates understanding and intention to comply with the contract terms. If there is a term or condition that the firm intends to negotiate, it must be stated in the proposal. The successful firm will not be entitled to any changes or modifications unless they were first stated in the proposal. The City reserves the right, at its sole discretion, to reject any or all submittal package(s) containing unreasonable objections to standard City contract provisions.

1. **NONDISCRIMINATION:** The Vendor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix C, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
2. **SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
3. **NON-COLLUSION:** Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
4. **PAYMENT TERMS:** The City agrees to pay all approved invoices Net Thirty (30) days from the date received and approved. The City does not agree to the payment of late charges or finance charges assessed by the seller or vendor for any reason. Invoices are payable in U.S. funds. However, the City shall not be obligated to make payment to the Contractor for any services performed under this contract.
5. **GOVERNING LAW:** Any agreement, contract or purchase order resulting from this invitation to bid, request for proposals or request for qualifications or quotes, shall be governed by the laws of

the State of North Carolina without regard to its choice of law provisions, and venue for any action or suits arising out of or relating to this contract shall be the North Carolina General Courts of Justice, in Pitt County, or if in federal court, in the Eastern District of North Carolina.

6. **SERVICES PERFORMED:** All services rendered under this agreement will be performed at the Vendor's own risk and the Vendor expressly agrees to indemnify and hold harmless the City, its officers, agents, independent contractors, officials (elected and appointed) and employees from any and all liability, loss or damage that they may suffer as a result of claims, demands, actions, damages or injuries of any kind or nature whatsoever by or to any and all persons or property. Additionally, all work performed under this Contract shall be performed in a workmanlike and professional manner, to the reasonable satisfaction of the City, and shall conform to all prevailing industry and professional standards.
7. **INDEPENDENT CONTRACTOR:** It is mutually understood and agreed the Vendor is an independent contractor and not an agent of the City, and as such, Vendor, their agents and employees shall not be entitled to any City employment benefits, such as but not limited to vacation, sick leave, insurance, worker's compensation, pension or retirement benefits.
8. **VERBAL AGREEMENT:** The City will not be bound by any verbal agreements.
9. **CONFIDENTIALITY:** Proprietary or confidential information ("confidential information") developed or disclosed by either party under this agreement shall be clearly labeled and identified as confidential information by the disclosing party at the time of disclosure. Confidential Information shall not be disclosed to the extent allowable by law by the receiving party to any other person except to those individuals who need access to such Confidential Information as needed to ensure proper performance of the Services.

Neither party shall be liable for disclosure or use of Confidential Information which: (1) is or was known by the receiving party at the time of disclosure due to circumstances unrelated to this agreement; (2) is generally available to the public without breach of this agreement; (3) is disclosed with the prior written approval of the disclosing party; or (4) is required to be released by applicable law or court order.

Each party shall return all Confidential Information relating to this agreement to the disclosing party upon request of the disclosing party or upon termination of this agreement, whichever occurs first. Each party shall have the right to retain a copy of the Confidential Information for its internal records and subject to ongoing compliance with the restrictions set forth in this Section. This Section shall survive termination of this agreement.

7. **INSURANCE REQUIREMENTS:** Vendor shall maintain at its own expense (a) Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage; City of Greenville, North Carolina, 200 W. Fifth St. Greenville, NC 27834 shall be named as additional insured. (b) Professional Liability insurance in an amount not less than \$1,000,000 per occurrence-if providing professional services; (c) Workers Compensation Insurance as required by the general statutes of the State of North Carolina and Employer's Liability Insurance not less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit; (d) Commercial Automobile Insurance applicable to bodily injury and property damage, covering all owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 per occurrence as applicable. Certificates of Insurance shall be furnished prior to the commencement of Services. Depending on the type of services to be provided, cyber liability insurance or increased limits may be necessary.
8. **INDEMINIFICATION AND HOLD HARMLESS:** All services rendered under this agreement will be performed at the Vendor's own risk and the Contractor shall indemnify and hold harmless the City from and against any liability, loss, cost, damage suit, claim, or expense arising occurrence on the part of the Vendor and its officers, servants, agents or employees arising from its activities, operations, and performance of services under this contract and further agrees to release and discharge the City and its agents and employees from all claims or liabilities arising from or caused by the Vendor in fulfilling its obligation under this contract. It is understood and agreed by the parties that City will assume no liability for damages, injury, or other loss to the Contractor, its employees or property, tools or equipment, or to other persons or properties located on City facilities resulting from the Vendor's activities and operations while performing services under this contract.
9. **E-VERIFY COMPLIANCE:** The Vendor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Vendor utilizes a Subcontractor, the Vendor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. By submitting a proposal, the Proposer represents that their firm and its Subcontractors are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.
10. **IRAN DIVESTMENT ACT:** By submitting a proposal, the Vendor certifies that: (i) it is not on the Iran Final Divestment listed created by the N.C. State Treasurer pursuant to N.C.G.S. 147-86.58; (ii) it will not take any actions causing it to appear on said list during the term of any contract with the City, and (iii) it will not utilize any subcontractor to provide goods and services hereunder that is identified on said list.
11. **ADVERTISING:** The Vendor shall not use the existence of this Contract, or the name of the City, as part of any advertising without the prior written approval of the City.



12. **FORCE MAJEURE:** Except as otherwise provided in environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this contract, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any acts of God; acts of the public enemy; insurrections; riots; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; shortages of materials or energy; fires; explosions; floods; any curtailment, order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, including, without limitation any of the foregoing which occur as a result of epidemic or pandemic; changes in laws governing this type of Work of facility; or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the City. Reasonable extension of time for unforeseen delays may be made by mutual written consent of all parties involved or the contract may terminate.

13. **ASSIGNMENT:** This Contract, including payment due under this contract, may not be assigned without the express written consent of the City.

14. **CONFLICT OF INTERESTS:**

- a. Vendor is aware of the conflict of interest laws of the City of Greenville, of the State of North Carolina (as set forth in North Carolina General Statutes), and agrees that it will fully comply in all respects with the terms thereof and any future amendments.
- b. Vendor covenants that no person or entity under its employ, presently exercising any functions or responsibilities in connection with this Agreement has any personal financial interests, direct or indirect, with the City. Contractor further covenants that, in the performance of this Agreement, no person or entity having such conflicting interest shall be utilized in respect to the Scope of Work or services provided hereunder. Any such conflict of interest(s) on the part of Contractor, its employees or associated persons or entities shall be disclosed to the City.
- c. Vendor shall disclose any possible conflicts of interest or apparent improprieties of any party under or in connection with the Legal Requirements, including the standards for procurement.
- d. Vendor shall make any such disclosure to the City in writing and immediately upon the Contractor's discovery of such possible conflict. The City's determination regarding the possible conflict of interest shall be binding on all parties.
- e. No employee, agent, contractor, elected official or appointed official of the City, exercising any functions or responsibilities in connection with this Agreement, or who is in a position to participate in the decision-making process or gain inside information regarding activities, has any personal financial interest, direct or indirect, in this Agreement, the proceeds hereunder, the Project or Contractor, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

15. **NONAPPROPRIATION OF FUNDS.** Vendor acknowledges that funding for this Agreement is conditioned upon appropriation and allocation by the governing body of sufficient

funds to support the activities described in this Agreement. By written notice to Vendor at the earliest possible date, City may terminate this Agreement, in whole or in part, at any time for lack of appropriation of funds, or other withdrawal, reduction or limitation in any way of the City's budget, funding or financial resources. Such termination is in addition to the City's rights to terminate for convenience or cause. If this Agreement is terminated for non-appropriation: The City will be liable only for payment in accordance with the terms of this Agreement for Work completed and expenses incurred prior to the effective date of termination. The Vendor will not be compensated for any other costs in connection with a termination for non-appropriation. The Vendor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits. Vendor shall be released from any further obligation to provide Work affected by such termination; and Termination shall not prejudice any other right or remedy available to the City.

16. **DISPUTE RESOLUTION:** In the event of any dispute arising out of or relating to this agreement, the affected party shall notify the other party, and the parties shall attempt in good faith to resolve the matter within thirty (30) days after the date such notice is received by the other party (the "Notice Date") prior to exercising their rights under law.
17. **PERFORMANCE OF GOVERNMENT FUNCTIONS:** Nothing contained in this Agreement shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.
18. **E-SIGNATURE AUTHORITY:** The parties hereto consent and agree that this agreement may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's hand written signature. The parties further consent and agree that (1) to the extent a party signs this document using electronic signature technology, by clicking "sign", such party is signing this Agreement electronically, and (2) the electronic signatures appearing on this Agreement shall be treated for purposes of validity, enforceability and admissibility, the same as hand-written signatures.
19. **TERMINATION:** The City may terminate this Contract at any time by providing thirty (30) days written notice to the Contractor. In addition, if Vendor shall fail to fulfill in timely and proper manner the obligations under this Contract for any reason, including the voluntary or involuntary declaration of bankruptcy, the City shall have the right to terminate this Contract by giving written notice to the Contractor and termination will be effective upon receipt. Contractor shall cease performance immediately upon receipt of such notice. The Vendor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract, and the City may withhold any payment due to the Contractor for the purpose of setoff until such time as the City can determine the exact amount of damages due the City because of the breach.

**City of Greenville/Greenville Utilities Commission  
Minority and Women Business Enterprise Program**

**City of Greenville  
MWBE Guidelines for Professional Service Contracts  
\$10,000 and above**

These instructions shall be included with each bid solicitation.

# City of Greenville/Greenville Utilities Commission Minority and Women Business Enterprise Program

## MWBE Guidelines for Professional Service Contracts \$10,000 and above

### Policy Statement

It is the policy of the City of Greenville and Greenville Utilities Commission to provide minorities and women equal opportunity for participating in all aspects of the City's and Utilities' contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchases, and professional and personal service contracts.

### Goals and Good Faith Efforts

Service providers responding to this solicitation shall comply with the MWBE program by making Good Faith Efforts to achieve the following aspirational goals for participation.

	CITY	
	MBE	WBE
Professional Services	4%	4%

Submitters shall submit MWBE information with their submissions on the forms provided. This information will be subject to verification by the City prior to contract award. **As of July 1, 2009, contractors, subcontractors, suppliers, service providers, or MWBE members of joint ventures intended to satisfy City MWBE goals shall be certified by the NC Office of Historically Underutilized Businesses (NC HUB) only.** Firms qualifying as "WBE" for the City's goals must be designated as a "women-owned business" by the HUB Office. Firms qualifying as "MBE" for the City's goals must be certified in one of the other categories (i.e.: Black, Hispanic, Asian American, American Indian, Disabled, or Socially and Economically Disadvantaged). According to new Statewide Uniform Certification (SWUC) Guidelines, ethnicity supersedes gender; therefore, firms who are certified as both a "WBE" and "MBE" will satisfy the "MBE" category only. **Each goal must be met separately. Exceeding one goal does not satisfy requirements for the other.**

The City shall accept NCDOT certified firms on federally funded projects only.

Please note: A service provider may utilize any firm desired. However, for participation purposes, all MWBE firms who wish to do business *as a minority* must be certified by NC HUB. A complete database of NC HUB certified firms may be found at <http://www.doa.nc.gov/hub/>

## Instructions

The submitter shall provide the following forms:

☐ FORM 1—Sub-Service Provider Utilization Plan

This form provides the amount of sub-contracted work proposed on the project for MWBE. This proposed participation is based on the current scope of work. Submitter must turn in this form with submission. If the submitter does not customarily subcontract elements of this type of project, do not complete this form. Instead complete FORM 2.

☐ FORM 2--Statement of Intent to Perform work without Sub-Service Providers

This form provides that the submitter does not customarily subcontract work on this type of project.

☐ Sub-Service Provider Utilization Commitment

Submitted by the selected service provider after negotiation of the contract and prior to Award, this form lists the MWBE firms committed to participate on the project. This commitment will reflect any changes in the Plan due to adjustments in project scope.

NOTE: A firm is expected to maintain the level of participation proposed in FORM 1 – Sub-Service Provider Utilization Plan – unless there is a negotiated change in the service required by the City. A firm is also encouraged to increase MWBE participation in the Utilization Commitment as a result of ongoing Good Faith Efforts.

☐ Proof of Payment Certification

Submitted by the selected service provider with each payment application, listing payments made to sub-consultants. This form is not provided with the submission.

*In addition to the forms provided above, each service provider must provide a discussion of its diverse business policies and procedures to include the good faith efforts it employed to utilize minority and women-owned firms on this project. This discussion must include:*

- 1. Outreach efforts that were employed by the firm to maximize the utilization of MWBE's.*
- 2. A history of MWBE firms used on similar projects; and*
- 3. The percentage participation of MWBE firms on these projects.*

*NOTE: Those service providers submitting FORM 2 should discuss and provide documentation to justify 100% performance without the use of sub-consultants (both majority and minority) per the statements of the form.*

Minimum Compliance Requirements: All written statements, signed forms, or intentions made by the Submitter shall become a part of the agreement between the Submitter and the City for performance of contracts. Failure to comply with any of these statements, signed forms, or intentions or with the minority business guidelines shall constitute a breach of the contract. A finding by the City that any information submitted (either prior to award of the contract or during the performance of the contract) is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City whether to terminate the contract for breach or not. In determining whether a Submitter has made Good Faith Efforts, the City will evaluate all efforts made by the Submitter and will determine compliance in regard to quantity, intensity, and results of these efforts.

# Sub-Service Provider Utilization Plan FORM 1

(Must be included with submission if subcontracting any portion of work)

We \_\_\_\_\_, do certify that on the  
(Company Name)  
\_\_\_\_\_ we propose to expend a minimum of \_\_\_\_\_%  
(Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_% of the total

dollar amount with **WBE** firms.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned intends to enter into a formal agreement with MWBE firms for work listed in this schedule conditional upon execution of a contract with the current scope proposed by the Owner.

The undersigned hereby certifies that he/she has read the terms of this agreement and is authorized to bind the submitter to the agreement herein set forth.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

## Statement of Intent to Perform work without Sub-Service Providers FORM 2

(Must be included with submission if not subcontracting any portion of work)

We, \_\_\_\_\_, hereby certify that it is our intent to perform **100% of the work required** for the \_\_\_\_\_ contract.

(Project Name)

In making this certification, the Proposer states the following:

- i. It is a normal and customary practice of the Proposer to perform all elements of this type of contract with its own workforce and without the use of sub-consultants. *The Proposer has substantiated this by providing documentation of at least three (3) other projects within the last five (5) years on which they have done so.*  
☐ **Check box to indicate documentation is attached.**
- ii. The Proposer has a valid business reason for self-performing all work on the Contract as opposed to subcontracting with a MWBE. The Proposal must describe the valid business reason for self-performing, and the Proposer must submit with its Bid or Proposal documentation sufficient to demonstrate to the Authority reasonable satisfaction the validity of such assertions.  
☐ **Check box to indicate documentation is attached.**
- iii. If it should become necessary to subcontract some portion of the work at a later date, the Proposer will notify the City and institute good faith efforts to comply with all requirements of the MWBE program in providing equal opportunities to MWBEs to subcontract the work. **The firm will also submit a Request to Change MWBE Participation Form (even if the final sub-consultant is not MWBE).**

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Proposer in accordance herewith.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_

# Sub-Service Provider Utilization Commitment

(Must be submitted after contract negotiation and prior to Award)

We \_\_\_\_\_, do certify that on the  
(Company Name)  
\_\_\_\_\_ we will expend a minimum of \_\_\_\_\_ %  
(Project Name)

of the total dollar amount of the contract with certified **MBE** firms and a minimum of \_\_\_\_\_ % of the total

dollar amount of the work with **WBE**.

Name, Address, & Phone Number of Sub-Service Provider	*MWBE Category	Work description	% of Work

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

The undersigned will enter into a formal agreement with MWBE firms for work listed in this schedule. Failure to fulfill this commitment may constitute a breach of contract.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind the submitter to the commitment herein set forth.

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

Name & Title of Authorized Representative \_\_\_\_\_

Signature of Authorized Representative \_\_\_\_\_



## REQUEST TO CHANGE MWBE PARTICIPATION

(Submit changes only if recipient of intent to award letter, continuing through project completion.)

Project: \_\_\_\_\_

Bidder or Prime Consultant: \_\_\_\_\_

Name & Title of Authorized Representative: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

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

Original Total Contract Amount: \$ \_\_\_\_\_

Total Contract Amount (including approved change orders or amendments): \$ \_\_\_\_\_

Will this request change the dollar amount of the contract? ☐ Yes ☐ No

If yes, give the total contract amount including change orders and proposed change:

\$ \_\_\_\_\_

The proposed request will do the following to overall MWBE participation (please check one):

☐ Increase ☐ Decrease ☐ No Change

Name of sub-consultant: \_\_\_\_\_

Service provided: \_\_\_\_\_

### Proposed Action:

\_\_\_\_ Replace sub-consultant

\_\_\_\_ Perform work in-house

For the above actions, you must provide one of the following reasons (Please check applicable reason):

\_\_\_\_ The listed MBE/WBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract.

\_\_\_\_ The listed MBE/WBE is bankrupt or insolvent.

\_\_\_\_ The listed MBE/WBE fails or refuses to perform his/her subcontract or furnish the listed materials.

☐ The work performed by the listed sub-consultant is unsatisfactory according to industry standards and is not in accordance with the plans and specifications; or the sub-consultant is substantially delaying or disrupting the progress of the work.

*If replacing sub-consultant:*

Name of replacement sub-consultant: \_\_\_\_\_

Is the sub-consultant a certified MWBE? ☐ Yes ☐ No

***If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.***

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Other Proposed Action:**

☐ Increase total dollar amount of work ☐ Add as an additional sub-consultant\*  
☐ Decrease total dollar amount of work ☐ Other

Please describe reason for requested action: \_\_\_\_\_

\_\_\_\_\_

*\*If adding additional sub-consultant:*

Is the sub-consultant a certified MWBE? ☐ Yes ☐ No

***If no, please attach documentation of outreach efforts employed by the firm to utilize an MWBE.***

Dollar amount of original consultant contract \$ \_\_\_\_\_

Dollar amount of amended consultant contract \$ \_\_\_\_\_

**Interoffice Use Only:**

Approval ☐ Y ☐ N

Date \_\_\_\_\_

**Proof of Payment Certification**  
**MWBE Contractors, Suppliers, Service Providers**

Pay Application No. \_\_\_\_\_

Purchase Order No. \_\_\_\_\_

Project Name: \_\_\_\_\_

Prime Service Provider: \_\_\_\_\_

Current Contract Amount (including change orders): \$ \_\_\_\_\_

Requested Payment Amount for this Period: \$ \_\_\_\_\_

Is this the final payment? \_\_\_Yes \_\_\_No

<b>Firm Name</b>	<b>MWBE Category*</b>	<b>Total Amount Paid from this Pay Request</b>	<b>Total Contract Amount</b>	<b>Total Amount Remaining</b>

\*Minority categories: Black, African American (**B**), Hispanic or Latino (**L**), Asian American (**A**) American Indian (**I**),  
Female (**F**) Socially and Economically Disadvantaged (**S**) Disabled (**D**)

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

Certified By: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature