

REQUEST FOR QUALIFICATIONS

OWNER'S ADVISOR
PROFESSIONAL SERVICES CONTRACT
FOR
NEW NEUSE RIVER WATER RECLAMATION FACILITY



Issued: April 1, 2021

Town of Clayton
Engineering - Capital Projects
Clayton, North Carolina

PUBLIC NOTICE – REQUEST FOR QUALIFICATIONS

This **REQUEST FOR QUALIFICATIONS** (“RFQ”) from the Owner named below invites the submittal of a proposal (“Proposal”) from design-build firms or teams interested in providing professional services (“Bidder”) for the project described below. By submitting a Proposal, the Bidder represents that it has carefully read the terms and conditions of this RFQ and all attachments and Addenda and agrees to be bound by them. This RFQ is not an offer to enter a contract, but merely a solicitation of persons interested in submitting a Proposal to the Owner for the project described below.

OWNER:

Town of Clayton

P.O. Box 879

Clayton, NC 27528

653 Highway 42 W

Clayton, NC 27520

(Mailing Address)

(Physical Address)

PROJECT:

Neuse River Water Reclamation Facility

Located in:

Town of Clayton, Johnston County, North Carolina

Proposal submittals for the services specified will be received by the Town of Clayton at the specified location listed in this RFQ document, until the date and time cited. Proposal submittals received by the correct time shall be considered. Proposal submittals received after the due date and time will not be considered.

PROCUREMENT WEBSITE:

To view or download the RFQ for this project, go to the website listed below:

Town of Clayton Bidding Opportunities: www.claytonnc.org/bids

PROPOSAL SUBMITTAL DUE DATE AND TIME:

Bidder’s Proposal shall be submitted and received by the Town no later than: **April 15, 2021, 2:00 PM EST**

Official time will be Eastern Standard Time (EST [UTC-5]) as kept by the National Institute of Standards & Technology: <https://time.gov/>

Proposal Submissions via FedEx, UPS, or Hand Delivery

Town of Clayton, North Carolina

Town Operations Center

653 NC-42

Clayton, NC 27520

Attention: Rich Cappola, PE

Proposal Submissions via US Postal Service

Town of Clayton, North Carolina

Attn: Rich Cappola, PE

P.O. Box 879

Clayton, NC 27528

***Electronic (email) or facsimile submissions will not be accepted. If Proposal submission is by hand delivery, all Bidders shall comply with any and all Federal, State, and local statutes, regulations, and policies regarding COVID-19 in place at the time of delivery including, without limitation, wearing masks and practicing proper social distancing.**

All Proposals must be submitted pursuant to the instructions below. It is the Bidder's sole responsibility to ensure that the Proposal is delivered in the manner required by this RFQ by the Due Date and Time. Owner has the right to reject any Proposals not properly delivered.

Submit one (1) original and three (3) copies in printed form, and one (1) digital copy on a non-returnable CD or flash drive. Proposals must be submitted in a sealed envelope/box labeled New Neuse River Water Reclamation Facility Owner's Advisor RFQ along with the Bidder's name and address clearly indicated on the envelope/box. Instructions for preparing the Proposal are provided herein.

Deadline for Questions: April 7, 2021 by 5:00pm EST. Submit all questions regarding this RFQ to Rich Cappola, Deputy Town Manager at prj-NewWRF@townofclaytonnc.org. List in the email subject line: "WRF Project RFQ Questions".

NOTE: Per the Town of Clayton's *Resolution Authorizing the use of Electronic Advertisement for Contracts Subject to § 143-129* (2018-11), the advertisement of projects on the Town's website shall meet the requirement for advertisement of bids, however the Town may elect to publish in the newspaper also.

I. INTRODUCTION

The Town of Clayton is soliciting Requests for Qualifications (RFQ) from firms interested in providing Owner’s Advisor Professional Services to include project management, engineering design, permitting assistance, contract administration, construction administration, and inspection of a new ±6 Million Gallons per Day (MGD) Water Reclamation Facility and associated regional infrastructure. It is the Town’s intention to utilize engineers, construction professionals, inspectors, and support personnel qualified through this RFQ to assist in managing the program of projects associated with the Water Reclamation Facility project.

The Town of Clayton will follow a Qualifications Based Selection process as required by N.C. General Statutes and select the most-qualified firm or team to negotiate a contract for services. Selection shall be based on demonstrated experience and expertise in the wastewater field, particularity related to new Water Reclamation Facilities and NPDES permitting. The areas of expertise shall include project design, environmental permitting, construction administration and commissioning. The Town also seeks a firm who has the ability to work in partnership with Town staff and other consultants/contractors that may be needed to complete the project. Ultimately, the Town seeks to select one firm or team who is determined to be the best match to address the complexity and needs of this major expansion.

The Town will evaluate and short list firms it deems most qualified as part of this RFQ. The Town may elect to short list and interview the top 2-3 qualified firms or teams to select the most qualified firm to perform the project.

The Town intends to complete this selection process in a timely fashion based on the following schedule.

Schedule for Selection

Note: All times are Eastern Standard Time <https://time.gov>

Sequence of Activity	Schedule
Issue RFQ	April 1, 2021
Firms submit questions concerning RFQ (prj-NewWRF@TownofClaytonNC.org)	April 7, 2021 by 5:00 PM
Town of Clayton issues addenda	April 12, 2021
Firms submit Statements of Qualifications (Clayton Operations Center: 653 NC-42, Clayton, NC 27520 or prj-NewWRF@TownofClaytonNC.org)	April 15, 2021 by 2:00 PM

Short list of firms notified*	April 19, 2021
Presentations to Selection Committee by short listed firms*	April 22, 2021
Most qualified firm notified and initiation of contract negotiations	April 26, 2021

Note: All times/Dates are subject to change.

**The Town may elect to select the most qualified firm based on the submittals alone and forego the interview process.*

II. GENERAL

- A. Send all responses using the format described in this request directly to:

Rich Cappola, PE
 Deputy Town Manager
 Town of Clayton
 653 NC-42, Clayton, NC 27520*
 PO Box 879(Via US Mail) 27520
 Clayton, NC 27528
 Email: prj-NewWRF@TownofClaytonNC.org

*Sealed packages shall be accepted at the address specified in the above schedule of selection.

- B. Refer technical/clarification inquiries to:

Email: prj-NewWRF@TownofClaytonNC.org

- C. The Town of Clayton invites and encourages participation by businesses owned by minorities, women, disabled, disabled business enterprise and non-profit work centers including utilization as subcontractors to perform functions under the engineering services contract. Minority Businesses (“MBEs”), Women Businesses (“WBEs”), Disadvantages Businesses (“DBEs”), and other small businesses shall have the opportunity to compete fairly in contracts financed in whole or in part with public funds. Consistent with this policy, the Town of Clayton will not allow any person or business to be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract because of sex, race, religion, or national origin. Please see the appendix for the Town’s Minority and Small Business Guidelines and Outreach Plan. The Bidder shall comply with the Town’s Minority and Small Business Guidelines and Outreach Plan (attached) and submit the required forms.

- D. All responses will be open for inspection and review by Town staff during the selection process. After the selection, the responses will be available to the public. All materials

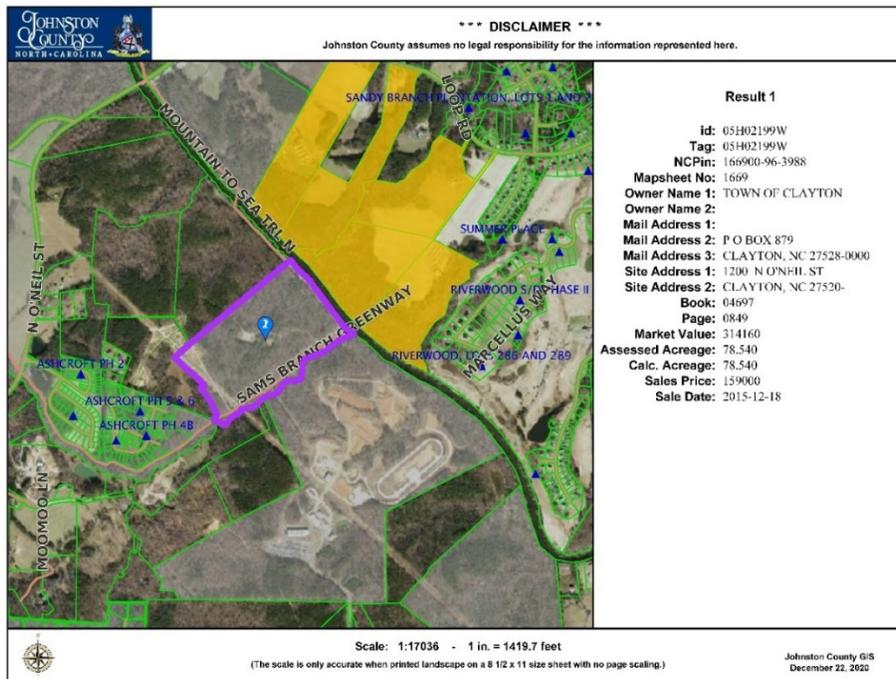
and information submitted during the qualification process will become the property of Town to keep or destroy. The Town is not responsible for proprietary information included in the package.

- E. Respondent's Representative for Business Purposes: The name, mailing address, and telephone number of the respondents authorized agent with authority to bind the firm and answer questions concerning the respondent's qualifications must be clearly stated in the cover letter.
- F. Cost of Preparation: The Town will not reimburse respondents for costs incurred in the preparation and submission of the Statement of Qualifications. The submitter at no cost will provide additional information requests to the Town.
- G. The Project is funded, in part, through the Clean Water State Revolving Fund ("CWSRF") Loan Program. The CWSRF Loan Award Documents are attached to this RFQ as Appendix C for information only. They are for use with a conventional design-bid-build project, not a design-build-bridge project. Although the information is provided, the requirements will have to be adapted for a design-build-bridge project. The Owner's Advisor and any subcontractors or subconsultants shall be required to abide by all requirements of the CWSRF in the delivery of the Project as specified by the North Carolina Department of Environmental Quality, Division of Water Infrastructure.
 - a. The requirements include but are not limited to the following:
 - i. Disadvantaged Business Enterprise (DBE) Program Compliance
 - ii. Dispute Resolution
 - iii. Davis-Bacon Specifications and Wage Determination
 - iv. American Iron and Steel Provisions (Buy American)
- H. The Town at its sole discretion, reserves the following rights:
 - a. To supplement, amend, substitute, or otherwise modify this RFQ, including all attachments and Appendices, at any time via an Addendum.
 - b. To cancel the RFQ with or without the substitution of another RFQ or Bidder ranking process.
 - c. To take any action affecting the RFQ that would be in the best interests of the Town.
 - d. To issue Addenda to this RFQ that provide additional or clarifying information.
 - e. To require one or more Bidders to supplement, clarify or provide additional information in order for the Town to evaluate any portion of a Proposal.
 - f. To conduct investigations with respect to the qualifications and experience of each Bidder.
 - g. To waive any defect or technicality in any Proposal received.

- h. To take any other action affecting the RFQ process or the Project that is determined to be in the Town's best interests.
- i. To approve or disapprove of the Bidder's use of particular subcontractors, subconsultants or other individuals or entities and/or substitutions or changes to subcontractors, subconsultants, or other individuals or entities identified in the Proposal.
- j. To contact references who are not listed in the Bidder's Proposal and investigate statements on the Proposal and/or qualifications of the Bidder and any firms or individuals identified in the Proposal; and
- k. To reject any or all Proposals.

III. DESCRIPTION OF THE PROJECT

The Town of Clayton (Town), located in the piedmont region of North Carolina, provides wastewater conveyance and treatment services to a population of approximately 32,000 residents and several biopharma industrial customers. The Town currently owns and operates the Little Creek Water Reclamation Facility (LCWRF), with a permitted maximum month capacity of 2.5 million gallons per day (MGD). Additionally, the Town has purchased treatment capacity via regional contracts from neighboring utilities. The Town is seeking to expand their wastewater treatment capacity and increase system resiliency by constructing a new 6 MGD WRF. The plan to expand is driven by LCWRF's ageing infrastructure, expected residential and industrial growth, and the upcoming expiration of one of the Town's regional contracts. A recent capacity study indicated the Town will require approximately 10 MGD in total wastewater treatment capacity over the next twenty years to meet future needs, including major increases in industrial flow from the bio-pharma customers. The Town is planning a phased approach to meet this expected demand, with an initial step to reach 6 MGD in Town-owned treatment capacity at a new-location. The current Town-owned property located off N. O'Neil Street along the Neuse River has been selected as the future location of the New Neuse River Water Reclamation Facility:



Site Location

In addition to the new Neuse River WRF, two major transmission projects will be completed under separate solicitations to convert the existing Little Creek WRF to a pump station and add a forcemain to the new WRF site; and one to expand an existing pump station in the East Clayton Industrial Area (ECIA) and install a new forcemain to the new site also. Both of these projects will need to be completed by the end of 2023 to line up with completion of the new WRF.

III. ANTICIPATED SCOPE

Town staff based on the firm's project knowledge, skills and demonstrated success, will evaluate qualifications related to the firm or team's design, permitting and construction of Water Reclamation utility assets. The primary function of the Owner's Advisor will be to provide a Resident Project Representative a resident project representative (RPR) to be responsible for keeping track of daily construction operations to assure that the project is being constructed per the contract documents and construction plans.

A general outline of work required is provided in this RFQ. This is not intended to be all- inclusive, nor is it guaranteed that all of the below tasks will be utilized. A more defined Scope of Work will be developed during negotiation with the selected firm. ToC reserves the right, at its sole discretion, to expand or limit the work based on funding availability or shifting priorities of the Town. Please note that the list below assumes Design Build project delivery will be utilized for all phases of the project, but other project delivery methods may be utilized at ToC's discretion. Selected OA will assist Owner in determining how

to package the proposed work and recommend project delivery options. Upon selection of project delivery method, OA will assist Owner as follows:

A. Planning

- a. Review cost estimating data from existing evaluation and preliminary engineering report
- b. Develop initial budgeting and project cash-flow to match availability of funding
- c. Develop a clear decision-making matrix to ensure full understanding of decision-making process and levels of authority
- d. Develop project risk-responsibility matrix
- e. Develop and update a schedule and budget for all phases of the project as it progresses.
- f. Provide additional services as needed (i.e. SRF funding applications, partnering, etc.)

B. Procurement

- a. Assist ToC Procurement and Engineering staff with developing procurement documents
- b. Coordinate with ToC legal counsel in the preparation of contract documents for negotiating with selected D-B team and other contractors
- c. Review D-B teams guaranteed maximum price (GMP) documentation and run parallel cost estimates to verify costs.
- d. Assist Owner negotiation of GMP for each phase of the project

C. Design

- a. Participate in design workshops with Owner and D-B team as-needed.
 - i. Teams should include, at a minimum, design professionals with experience in the disciplines of Electrical, Mechanical, Structural, and Process engineering
- b. Participate in periodic design reviews
- c. Perform constructability reviews
- d. Assist Owner with monitoring design development for compliance with contract cost and schedule
- e. Review and analyze value-added change orders
- f. Assist Owner with review payment requests and contract modifications

D. Construction Management

- a. Identify appropriate changes in scope, review change orders, validating the impact of changes, and managing the documentation process.
- b. Provide parallel cost estimates for changes in scope where necessary
- c. Monitor and administer construction contract, including the services of a resident project representative
- d. Assist in resolving disputes and escalating issues if necessary
- e. Review and monitor construction budget
- f. Attend construction progress meetings
- g. Monitor submittal log
- h. Respond to requests for information from D-B team
- i. Review D-B teams' monthly payment requests
- j. Monitoring and reviewing as-built documents and record drawings
- k. Oversee performance-testing and confirm compliance with performance guarantees
- l. Monitor compliance with the startup and testing plan, and warranty services

Due to the broad scope and length of time OA services will be needed, ToC may use one of several contracting methods (e.g. master agreement, multiple contract awards, etc.) to acquire OA services.

IV. CONTENT AND FORMAT OF SUBMITTALS

All submittals shall adhere to the following format and include, at a minimum:

Format: Proposals shall be a **maximum of 20-pages** (10 if double sided) excluding a Table of Contents and section dividers on 8.5” x 11” paper bound such that they lay flat when opened. Sections should be indexed and tabbed for easy reference to the material contained within with tabs labeled and extend beyond the page width.

Introduction

- Introductory letter including a clear, concise explanation as to why the Town should select your firm for this work (specify primary contact person, address, and telephone number)

Firm Experience and Workload

- Detailed description of experience on similar projects.
- List of all similar projects completed in the past five years, including a name and telephone number of a contact for each client who can verify the information provided.
- List of projects completed for the Town of Clayton within the past ten years.
- List of projects completed in the Neuse River Basin or other water body regulated due to nutrient impairment

Firm Personnel Experience

- Organizational chart of the proposed project team and role of each member.
- Name, location, and brief summary of staff members available to work on project.
- Experience of all firm personnel who will actually work directly on this project including, years of relevant experience, education (school, degree, and year of graduation), professional registration and availability to work on this project.
- Firm name, contact person, address and telephone number for each sub-consultant proposed to work on this project, as well as experience and qualifications of each.

Project Approach

- Provide a project approach outline
- Sub-tasks may be added to clarify project approach.
- Proposed project management and communications approach for this project.
- Demonstration of the firm’s proven ability to successfully manage construction, testing, and startup for these types of facilities.
- Examples of how the firm has provided innovative coordination, management, startup, scheduling, etc. at other similar facilities.
- Suggestions for additional services that may enhance the value of this project.

Project Schedule

- Provide a plan for assisting the Owner in meeting the schedules associated with the program

V. CONSULTANT SELECTION

Town staff members will review the proposals based on the criteria below and may make a recommendation to negotiate a tentative contract. This request for qualifications does not commit the Town to award a contract or enter into an agreement, to pay costs incurred in the preparation of a response to this invitation, or to procure or contract for any services or supplies. The Town reserves the right to reject any or all submittals received as a result of this RFQ. Proposals shall be evaluated based on the following criteria:

1. Firm experience/workload (25%) - Experience of the firm in similar work and record of successful results of that work. Also considered will be the firm's ability to take on additional work. The firm's understanding of the Town's goals, project purpose, and ability to meet an aggressive timeline. The FRQ should identify the firm's specific management approach and provide the firm's organizational structure shows sufficient depth for its present workload and the proposed project.
2. Experience of the personnel assigned to the project team (40%) - Significant consideration will be given to the individual qualifications of the project team members who will actually perform substantial amounts of the work on this project. Considerations will include qualifications of key personnel, project team member's individual experience and qualifications, project manager's experience and qualifications, sub-consultant's individual experience and other qualifications.
3. Response to the project objectives outlined in the RFQ (25%) - This includes a demonstrated understanding of the scope and purpose of the project, a demonstrated ability and experience in the design, permitting, and construction management of Water Reclamation Facilities and related biosolids removal facilities and methods.
4. Schedule (10%) - The proposed schedule for performing the work for the proposed project. If a contract is awarded, the selected firm must be in a position to begin work immediately and move promptly toward implementation and completion.
5. Interview – Shortlisted firms may need to appear before a committee of Town Staff from various departments for an interview. The interview will consist of a 30-minute presentation of the firm's qualifications for the job, experience on similar projects, explanation of any ideas the firm has that may have a bearing on overall project cost or schedule, and a 30-minute question/answer period (60 minutes). Each firm's proposed key project staff shall attend the

interview. Each firm shall be responsible for all costs (e.g. travel and presentation materials) related to the presentation.

The Town anticipates identification of the most qualified consultant or team by April 26, 2021. Once selected, the Town will initiate negotiations of a scope and fee. Once finalized, the agreement will be presented to Town Council for approval and executed once action has occurred.

APPENDIX A

	TOWN OF CLAYTON POLICY	
	Department: Finance	Effective: January 19, 2021
Policy Title: OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN TOWN OF CLAYTON BUILDING CONSTRUCTION OR REPAIR CONTRACTS Version #01	Supersedes: V.# 1992 Resolution	
	Prepared By: J. Brian Pridgen (Cauley Pridgen P.A.) Town Attorney	
	Approved By: Town Council Resolution: 2021-04 Date: JAN. 19, 2021	

In accordance with G.S. 143-128.2, these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on **Town of Clayton** building construction or repair projects in the amount of \$300,000 or more and on Town building projects involving State funding where the total project cost \$100,000 or more. The outreach plan shall also be applicable to the selection process of architectural, engineering, and Construction Manager-at-Risk services.

The Town of Clayton has a current verifiable goal of **ten** percent for minority participation for building construction or repair projects. The goal will be reviewed **every five years**.

SECTION A: INTENT

It is the intent of these guidelines that the Town of Clayton, as awarding authority for building construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of ten percent for participation by minority businesses in each building construction or repair project as required by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

A copy of these Guidelines will be issued with each bid package for applicable Town of Clayton building projects. These Guidelines shall apply to all contractors on such projects, regardless of ownership.

SECTION B: DEFINITIONS

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
 - e. Female

2. Minority Business (MBE) - means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
 - c. The business is certified as a Historically Underutilized Business by the North Carolina Department of Administration Office for Historically Underutilized Business.

3. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637: Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.
4. Public Entity - means the State and all public subdivisions and local governmental units.
5. Owner – Town of Clayton.
6. Designer – Any person, firm, partnership, or corporation which has contracted with the Town of Clayton to perform architectural or engineering work.
7. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services, including construction, and obligating the buyer to pay for them.
9. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Clayton to perform building construction or repair work.
10. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.
11. HUB Office – N.C. Department of Administration’s Office for Historically Underutilized Businesses.

SECTION C: MINORITY OUTREACH PLAN AND GUIDELINES

Owner:

The Owner shall do the following:

1. Implement the attached “Town of Clayton’s Minority and Small Business Participation Outreach Plan” to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction between minority businesses and nonminority businesses.
2. Attend the scheduled prebid conference and explain the minority goals and objectives.
3. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the Owner for public construction or repair work and minority businesses that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:
 - (1) A description of the work for which the bid is being solicited.
 - (2) The date, time, and location where bids are to be submitted.
 - (3) The name of the individual within the public entity who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist.
4. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.
5. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
6. Review, jointly with the designer, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) prior to recommendation of award.
7. Evaluate documentation to determine that a good faith effort has been achieved for minority business utilization prior to recommendation of award.
8. Forward documentation showing evidence of implementation of Owner’s requirements to the State Construction Office and the HUB Office upon request.

In addition, after a contract has been awarded the Owner shall:

- a. Review prime contractors’ pay applications for compliance with minority business utilization commitments prior to payment.
- b. Submit the report to the HUB Office as required by G.S. 143-128.3(a).

Designer:

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
2. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
3. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
4. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) – (i.e. bidders’ proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.

5. During construction phase of the project, review documentation for contract payment to MBEs (e.g. state form “Appendix E: MBE Documentation for Contract Payment” <http://interscope2.doa.state.nc.us/Guidelines/MBE/MBGuidelines2002R.pdf>) for compliance with minority business utilization commitments. Submit this form with monthly pay applications to the Owner.
6. Make documentation showing evidence of implementation of Designer’s responsibilities available for review by the Owner and State officials upon request.

Prime Contractor(s), CM at Risk, and Its First-Tier Subcontractors:

The following requirements apply to all contractors utilizing single-prime bidding, separate-prime bidding, construction manager at risk and alternative contracting methods, as well as to all contractors performing as contractors and first-tier subcontractors under construction manager at risk. For purposes of this subsection, the term “contractor(s)” shall also include first-tier subcontractors under a construction manager at risk. The contractors shall:

1. Attend the scheduled prebid conference and any prebid meetings scheduled by the Owner.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. At least ten (10) days prior to the scheduled day of bid opening or due date for proposals, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
 - (a) A description of the work for which the subbid is being solicited.
 - (b) The date, time and location where subbids are to be submitted.
 - (c) The name of the individual within the company who will be available to answer questions about the project.
 - (d) Where bid documents may be reviewed.
 - (e) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

If there are more than three (3) minority businesses within a 75 mile radius of the project who offer similar contracting or subcontracting services in the specific trade, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.

4. During the bidding process, comply with the contractor(s) requirements listed in these Guidelines and any contractor requirements listed in the Town of Clayton’s Minority and Small Business Participation Outreach Plan.
5. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and submit affidavit listing Good Faith Efforts (Affidavit A) as required by G.S. §143-128.2(c) and G.S. §143-128.2(f). If the contractor will be performing all of the work with its own workforce, the contractor may submit Affidavit B, Intent to Perform Contract with Own Workforce,” in lieu of Affidavit A. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
6. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First-Tier Subcontractor responsibilities available for review by the Owner and State officials upon request.
7. Provide one of the following to Owner upon being named the apparent low bidder:
 - (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; or
 - (2) if the percentage is not equal to the applicable goal, then an affidavit (Affidavit D) and documentation of all Good Faith Efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitation, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.

8. Within thirty (30) days after award of the contract, the apparent lowest responsible, responsive bidder shall file with Owner a list of all identified subcontractors that the contractor will use on the project.
9. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in the General Conditions of the Contract to facilitate payments to the subcontractors.
10. Submit with each monthly pay request and final payment request the “MBE Documentation for Contract Payment” - (Appendix E), for Designer’s review.
11. If at any time during the construction of a project, if it becomes necessary to replace a minority business subcontractor, immediately advise the Owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor,
12. Make a good faith effort to solicit subbids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

In addition, a construction manager at risk shall submit its plan for compliance with N.C. Gen. Stat. § 143-128.2 for approval by the Town prior to soliciting bids for the project’s first-tier subcontractors.

Minority Business Responsibilities:

Certification

The Town of Clayton does not certify minority businesses. Any business which desires to participate as a minority business under these Guidelines will be required to register and become certified as a historically underutilized business (“HUB”) by the North Carolina Department of Administration Office for Historically Underutilized Businesses (“HUB Office”).

Businesses seeking HUB certification are directed to: <http://www.doa.state.nc.us/hub/prog-certification.htm>.

Minority HUB contractors shall make a good faith effort to participate in construction projects as demonstrated by:

1. Attending the scheduled prebid conference.
2. Responding promptly whether or not they wish to submit a bid when contacted by the Owner or bidders.
3. Attending training and contractor outreach sessions given by the Owner, contractors and state agencies, when feasible.
4. Participating in Mentor/Protégé programs, training, or other business development programs offered by the Owner, contractors or state agencies.
5. Negotiating in good faith with the Owner or contractors.

Other Responsibilities

Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

MINORITY BUSINESS CONSTRUCTION CONTRACT PROVISIONS

(To be included in solicitations and contract documents)

APPLICATION:

The Guidelines for Recruitment and Selection of Minority Businesses for Participation in Town of Clayton Construction Contracts are hereby made a part of these contract documents.

MINORITY BUSINESS SUBCONTRACT GOALS:

The goal for participation by minority firms as subcontractors on this project has been set at 10%.

The bidder must identify on its bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit (Affidavit A) listing good faith efforts or affidavit (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. §143-128.2(c) and G.S. 143-128.2(f).

In addition, the lowest responsible, responsive bidder must do one of the following:

(1) Provide Affidavit C that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal.

OR

(2) If the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, is less than the applicable goal, provide Affidavit D as well as documentation of Good Faith Efforts.

OR

(3) Provide Affidavit B, which includes sufficient information for the Owner to determine that the bidder does not customarily subcontract work on this type project.

The above information must be provided as required. Failure to submit these documents is grounds for rejection of the bid.

SECTION D: MINIMUM COMPLIANCE REQUIREMENTS

All written statements or affidavits made by the bidder shall become a part of the agreement between the Contractor and the Town of Clayton for performance of the contract. Failure to comply with any of these statements, affidavits, or with the minority business guidelines shall constitute a breach of the contract. A finding by the Town of Clayton 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 Town of Clayton whether to terminate the contract for breach.

In determining whether a contractor has made good faith efforts, the Town of Clayton will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points for good faith efforts. Failure to file a required affidavit or documentation demonstrating that the contractor made the required good faith effort, is grounds for rejection of the bid. Good faith efforts include:

1. Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. (10 points)
2. Making the construction plans, specifications, and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. (10 points)
3. Breaking down or combining elements of work into economically feasible units to facilitate minority participation. (15 points)
4. Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses. (10 points)
5. Attending any pre-bid meetings scheduled by the public owner. (10 points)
6. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (20 points)
7. Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Reasons for rejection of a minority business based on lack of qualification should be documented in writing. (15 points)
8. Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. (25 points)
9. Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible. (20 points)
10. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands. (20 points)

SECTION E: DISPUTE RESOLUTION PROCEDURES

Pursuant to G.S. 143-128 (f1), all disputes involving contractors on a building construction or repair project with the Town of Clayton shall be resolved as governed under the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11).

SECTION F: In addition to these guidelines, there will be issued with each construction bid package provisions for providing minority business participation in Town of Clayton projects.

SECTION G: The Town Board of Commissioners empowers the Town Manager to enforce and/or amend this policy as may be required by changes in State law or Federal regulation.

TOWN OF CLAYTON'S MINORITY AND SMALL BUSINESS PARTICIPATION OUTREACH PLAN

In addition to the good faith efforts set forth in the Guidelines for Recruitment and Selection of Minority Businesses for Participation in Town of Clayton Construction Contracts, the Town of Clayton will also make the following good faith efforts in order to make it feasible for minority businesses to submit successful bids or proposals for contracts for building projects. The Town of Clayton shall also make the following good faith efforts in the selection process for architectural, engineering, and construction manager at risk services.

1. Work with minority-focused and small business groups that support minority business and small business inclusion in the solicitation of bids.
2. Place more emphasis on the importance of soliciting certified minority businesses and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from minority businesses.
3. Provide detailed information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business for Participation in Town of Clayton Construction Projects and this Outreach Plan (hereinafter referred to collectively as the "MBE Program") and provide information on G.S. 143-129 by holding meetings with the contractors.
4. Assess the effectiveness of the MBE Program, and identify opportunities to enhance it, by evaluating minority business participation and compliance and reviewing the "good faith efforts" provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified minority businesses and small businesses that have expressed an interest in Town of Clayton projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors plan to participate in the project.
6. Build new business relationships through networking and continue networking with other North Carolina cities and counties to find out how this MBE Program is working and sharing "best practices" and ideas to improve the program.
7. Participate in education opportunities throughout the community as they become available and offer training sessions to share the Town's Outreach Plan with interested businesses and organizations.
8. Be visible through participation in trade shows and business organizations of interest to minority businesses, majority contractors and small businesses, and provide information to the general public about the MBE Program, and continue outreach efforts to the business community.
9. Enhance the Town's web page by including the MBE Program, listing good faith efforts, and creating links to minority business resources, and creating awareness of specific subcontracting opportunities.
10. Make available to minority-focused agencies, a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.
11. Direct minority businesses to the Statewide historically underutilized business certification program in order to ensure those firms wishing to do business with the Town of Clayton or any other public entity have access to up to date information.
12. Advertise upcoming bid opportunities in minority-focused media and on the Town website.
13. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.
14. Document telephone calls, emails and correspondence with or on behalf of minority businesses and encourage interested eligible firms to become certified.

State of North Carolina – AFFIDAVIT A – Listing of Good Faith Efforts

County of _____

(Name of Bidder)

Affidavit of _____

I have made a good faith effort to comply under the following areas checked:

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

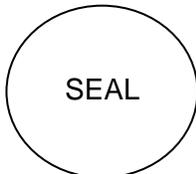
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____
My commission expires _____

State of North Carolina – AFFIDAVIT B – Intent to Perform Contract with Own Workforce

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

State of North Carolina – AFFIDAVIT C – Portion of the Work to be Performed by HUB Certified/Minority Businesses

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by HUB certified/minority businesses as defined in GS143-128.2(g) and 128.4(a),(b),(e) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit.

This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of _____ I do hereby certify that on the _____
 (Name of Bidder)

_____ (Project Name)
 Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

**** HUB Certification with the state HUB Office required to be counted toward state participation goals.**

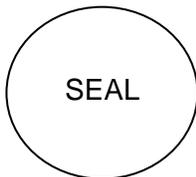
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

State of North Carolina – AFFIDAVIT D – Good Faith Efforts

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 10% participation by HUB Certified/ minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of _____ I do hereby certify that on the _____
 (Name of Bidder)

Project ID# _____ (Project Name) Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with HUB certified/ minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. (Attach additional sheets if required)

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

**** HUB Certification with the state HUB Office required to be counted toward state participation goals.**

Examples of documentation that may be required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____