



Finance
Purchasing Division
320 Chestnut Street, 2nd Floor
Post Office Box 1810
Wilmington, NC 28402-1810

910 341-7830
910 341-7842 fax
wilmingtonnc.gov
Dial 711 TTY/Voice



April 17, 2008

NOTICE

Upon receiving this proposal by internet, email julia.vosnock@wilmingtonnc.gov to register as a prospective respondent. Failure to register as a prospective respondent may result in your firm not receiving proposal addenda. Failure to acknowledge proposal addenda with your submittal may cause your proposal to be considered non-responsive.

**Re: Request for Letters of Interest
Centralized/Distributed Traffic software/firmware
RFP No. S6-0408**

Dear Sir,

The above referenced Request for Letters of Interest will provide your firm with sufficient information to enable you to prepare and submit a qualifications statement for services related to the development of the specified software and firmware. If you wish to submit a proposal you may download the document from the City WEB site at www.wilmingtonnc.gov or contact my office.

The RFQ includes a preliminary scope of work and general terms and conditions of any subsequent contract. The scope of services, as defined herein, may be modified after final selection of the consultant. The general terms and conditions are part of any submitted proposal and will be incorporated into any subsequent contract. Submission of a statement shall constitute acceptance of these terms and conditions. Conditional responses may be rejected.

The Letter of interest as described in the document must be received by the Purchasing Division, P. O. Box 1810, 320 Chestnut St., Second Floor, Wilmington, NC 28402 no later than 5:00 PM, Tuesday, May 6, 2008 in order to be considered.

In order for your proposal to be considered responsive, it must include 1) a list of personnel including outside consultants, assigned to the project along with resumes, 2) a list of similar projects performed in the past including the client, negotiated fee and final fee paid, 3) a list of current similar projects and any other information which may be helpful to the Committee evaluating the proposal. The final fee for services listed herein may be negotiated with the selected firm.

A committee selected by the City will review the qualifications statements and select the most qualified firm(s) for an interview. After the most qualified firms are determined by the City, the staff may request a fee proposal from these firms and further evaluate the information provided. Final fee negotiations will be held with the firm determined to be the most qualified to perform the work.

It is the goal of the City to promote local and minority business participation in all construction and service contracts. Therefore, in accordance with the City of Wilmington's MBE/DBE Policy, the Engineer shall make a good faith effort to identify and hire minority subcontractors for this project. A complete copy of the City's MBE/DBE policy is available at my office.

Questions concerning the scope of work for this study should be addressed to Mr. Don Bennett, Traffic Engineer, at (910) 341-4696

Questions concerning the proposed contract terms and conditions should be addressed to my office.

I hope to receive your proposal for this work.

Sincerely,

Steven D. Bridges
Purchasing Manager

SDB

Cc: Mr. Don Bennett, Traffic Engineer

**CITY OF WILMINGTON
TRAFFIC ENGINEERING
REQUEST FOR LETTERS OF INTEREST
RFP No. S6-0408**

The City of Wilmington desires to engage a Private Software Engineering Firm(s) for the purpose of providing centralized/distributed signalized intersection control software/firmware based on the specifications attached. This software/firmware will be fully compatible with local intersection control software. The local traffic signal controllers and cabinets will be model 170 cabinets and 2070L controllers. The local traffic signal controllers will utilize Econolite Oasis®, latest version, provided by the North Carolina Department of Transportation.

Centralized/Distributed software/firmware will be used to communicate with local signalized intersections using dial-up telephone modems, twisted-pair communications cable, wireless communications, high speed internet connections, and fiber optic communications systems. All designed software/firmware will be fully compatible with equipment manufactured in accordance with Caltrans specification for the Model 2070L Traffic Controller.

A presentation is to be given by the firm(s) submitting a letter of interest. The firm(s) shall demonstrate the functionality and capabilities of their current Centralized/Distributed software/firmware. The presentation will be part of the selection process.

The selected firm(s) will be required to furnish proof of professional liability insurance coverage in the minimum amount of \$1,000,000.00. The firm(s) must have adequate accounting system to identify costs chargeable to the project.

The evaluation of firms submitting letters of interest for this work will be based on the following considerations and their respective weights:

1. Expertise and experience in developing software/firmware for Centralized/Distributed Traffic Systems, Closed Loop Traffic Systems, and Local Traffic Controllers. (40%)
2. The Centralized/Distributed Traffic Signal System software/firmware user friendliness, functionality, expandability and reliability. (20%)
3. Ability to meet the time schedule established by the City of Wilmington Traffic Engineering Department. The anticipated delivery for the software/firmware will be January 1, 2009. (40%)

Award will be made to the firm offering the Best Value as described below:

“Best Value” procurement means the selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is

considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

The final product shall be delivered within sixty days (60) after notice to proceed has been given. The evaluation of the Centralized/Distributed software/firmware will be held in Wilmington, North Carolina at the Traffic Management Center (TMC) located at 265 Operations Center Drive. At the presentation, provide three (3) copies of their latest version of software/firmware with operational workstations, five (5) manuals with related documentation, and all necessary cables to connect to City provided local traffic signal controllers for review. The City will provide local traffic signal controllers with the North Carolina Department of Transportation's local intersection control software Econolite Oasis®, latest version. The Centralized/Distributed software/firmware, workstations, manuals and firm supplied equipment will remain with the City of Wilmington and be evaluated for thirty (30) days. Provide names and phone numbers of personnel for questions regarding the operation and functionality of the Centralized/Distributed System software/firmware during the evaluation. The firm will be responsible for all shipping costs.

**Format for Submission of a
City of Wilmington Traffic Engineering
Letter of Interest**

All letters of interest are limited to sixteen (16) pages and shall be typed 8 ½" x 11" sheets, single-spaced, one side. In order to reduce cost and to facilitate recycling, binders, dividers, tabs, etc. are prohibited. One staple in the upper left-hand corner is preferred. Letters of interest containing more than sixteen (16) pages will not be considered.

Section I – Cover/Introductory Letter

The introductory letter should be addressed to Mr. Daryle Parker, Buyer, Purchasing Division, City of Wilmington. Said letter is limited to three (3) pages and should contain the following elements of information:

- Expression of firm's interest in the project;
- Proposed technical approach to the project;
- Statement regarding firm's possible conflict of interest for the project; and
- Summation of information contained in the letter of interest.

Section II – Other Evaluation Factors

This section is limited to five (5) pages and should contain information regarding evaluation and other factors listed in the advertisement such as:

- Identify project personnel/subconsultants qualifications and experience as related to this project;
- Unique qualifications of key team members;
- Identity type and location of similar work performed within the last three (3) years, along with references and telephone numbers;
- Understanding of project approach;
- DBE status of firm/subconsultants; and
- Percentage of work to be performed in North Carolina

Section III – Supportive Information

This section is limited to eight (8) pages and should contain the following information:

- Capacity chart/graph (available manpower);
- Organizational chart indicating personnel to be assigned by discipline;
- Resumes of key personnel;
- Names, classification, and location of firm's employees to be assigned to the project;
- Evaluations and references for similar work completed; and
- Other information.

Interested firms are invited to submit Letters of Interest for providing the above services to the Purchasing Division, P. O. Box 1810, 320 Chestnut St., Second Floor, Wilmington, NC 28402 no later than 5:00 PM, Tuesday, May 6, 2008 in order to be considered.

Letters of interest received after this deadline will not be considered. Ten (10) copies of each letter of interest are required, firms submitting fewer copies will not be considered.

The mailing address is:

City of Wilmington
Purchasing Division
320 Chestnut St., 2nd floor
PO Box 1810
Wilmington, North Carolina 28402

Only the selected firm will be notified. Any questions concerning the scope of this work or request for specification should be directed to Donald Bennett, City Traffic Engineer at 910-341-4696 or by e-mail at don.bennett@wilmingtonnc.gov.

Scope of Services

Centralized / Distributed Signalized Intersection Control Software

1.1 High Level Requirements

The high level requirements are intentionally broad and provide a layout of the main subsystems of the project. The proposed system shall have a central architecture, where the central system will communicate with the local traffic signals to provide direct signal controller upload and download database capabilities. The local traffic signal controllers and cabinets will be model 170 cabinets and NCDOT 2070 controllers, and be fully compatible with the local controller functions (Econolite Oasis®, latest version) provided by the North Carolina Department of Transportation. The system shall be designed for a turn-key implementation. Primary operations shall be maintained through the Traffic Management Center (TMC). TMC daily functions may include:

- a) Monitoring of traffic conditions and signal system equipment operation.
- b) Implementation and management of incident response.
- c) Collection of flow data.
- d) Requests for coordinated operation with other agencies and response to requests.
- e) Communication with the public.
- f) Monitoring for equipment failure.

1.2 Other TMC functions

Other TMC functions performed on a periodic basis might include downloading timing plan and database updates, as well as the planning of modifications to the system. The central software of the proposed system shall:

- a) Be highly reliable and low-maintenance.
- b) Interface with commercial off-the-shelf operating systems and productivity software.
- c) Be scalable to meet the City's current and future needs for additional devices.
- d) Be capable of supporting existing and additional traffic control software features.
- e) Have a central software system able to support existing and additional functionality.
- f) Support regional access.
- g) Be able to support multiple communication topologies.

1.3 Detailed Requirements

Detailed requirements are used to drill down these high level requirements into useable functional requirements. The detailed functional requirements are listed below their respective high level requirement.

The proposed system shall be highly reliable and low-maintenance.

- a) The central software shall utilize the standard NCDOT cabinet/controller architecture, including model 170 cabinets and NCDOT 2070L controllers, and be fully compatible with the local controller functions (Econolite Oasis®, latest version) provided by the North Carolina Department of Transportation.
- b) The central software and server hardware shall be integrated with an uninterruptible power supply (UPS) that detects power outages and allows for the orderly shutdown of the system, or transfer to backup power. The system shall be brought back online with minimal difficulty and loss of data when primary power is restored.
- c) The central software shall provide for redundancy functions so that field units and central databases are compared on a regular basis and upon modification to ensure data integrity.
- d) The central software shall provide for redundancy functions so that duplicate servers are backed up.
- e) The central software shall support a multi-level security system that controls access to the system. The user's capabilities shall range from view only to total system control depending on the privileges granted from the password assigned to an individual or agency.
- f) The central software shall support paging with system codes or text messaging for alarm levels selected by the user. The paging functionality shall facilitate the rollover to additional staff if the first staff member paged does not respond in a user-defined timeout period.
- g) The central software shall monitor and return status information on all local detectors, system detectors, controllers (flash, free, coordination, etc.), and communication status.
- h) The central software shall notify operators by message or alarm in the event of equipment malfunction.

1.4 System Interface

The proposed system shall be easy to interface with commercial off-the-shelf operating systems and productivity software.

- a) The central software shall have a user-friendly, Microsoft Windows-based graphical user interface with standard Windows drag and drop menus, and "cut and paste" data exchange between the system software and other Windows applications.

- b) The central software shall have a GIS-based system map in a coordinate system utilized by the City. The map shall allow the user to zoom in to reveal additional system, sub-system, corridor, and intersection data at user established graphical zoom levels.
- c) The central software shall have a database that is compatible with standard formats, such as SQL and XML formats.
- d) The central software shall support inputs from external sources, such as GPS antennas, for time management and synchronization functions.
- e) The central software shall import/export controller and system data.
- f) The central software shall support import capabilities to allow for the direct import of signal timing data generated by signal timing models (such as Synchro and TS/PP-Draft) directly into online signal timing sheets for upload into controller databases.
- g) The central software shall support the download of controller timing parameter databases into a format that allows for their direct export into signal timing modeling software, such as Synchro and TS/PP-Draft.
- h) The central software shall allow intersection schematics in Windows Enhanced Metafile format.

1.5 Scalability

The proposed system shall be scalable to meet the City's current and future needs.

- a) The central software shall support at least 400 traffic signals.

1.6 Local Intersection Compatibility

The proposed system shall support and be fully compatible with the local traffic signal controller software functions (Econolite Oasis®, latest version) provided by the North Carolina Department of Transportation.

- a) Support a minimum of twelve vehicle phases and a minimum of twelve pedestrian phases. This includes functions for lead, lag, exclusive, and sequential phases.
- b) Support a minimum of four pedestrian overlaps and eight vehicle overlaps.
- c) Support local vehicle detectors with functionality that can recognize single-lane detector data, system detector data, and can calculate vehicle occupancy, volume, and speed. Support pedestrian detectors.
- d) Support vehicle pre-emption inputs with at least three different priority levels.
- e) Support inputs from GPS units for time-based coordination for intersections that may not have interconnect installed under this project.
- f) Support direct connections and serial data connections.
- g) Support signal indications such as four-section/flashing arrow protective/permissive left turn heads.
- h) Support the integration of advance beacon control and other flashing output.

- i) Support time-based coordination (TBC) capability for back-up system control.
- j) The central software shall account for revised Daylight Savings hours.
- k) The software shall have user programmable dates for Daylight Savings time.
- l) Support special function outputs.

1.7 Operational Features

The proposed system shall have a central software system able to support existing and additional functionality.

- a) The central software shall support the modification and regrouping of intersections into different subgroups for timing control boundaries, reporting, and system actions (such as group flash) by time of day, scheduler initiation, or user intervention through the graphical interface.
- b) The central software shall support a minimum of 200 system-initiated or scheduler initiated events that are routine (hourly, daily, weekly, monthly, or annually) or one time.
- c) The central software shall support traffic responsive operation and provide a smooth (greater than a 2 cycle) transition from one timing plan to another.
- d) The central software shall support simultaneous control of multiple control zones with each having different control modes and timing plans (cycle length, offset, and split). Coordination shall be possible between adjacent control zones or subsystems.
- e) The central software shall support flash/free control operation.
- f) The central software shall be able to start up and shut down computer control with minimum disruption to traffic flow.
- g) The central software shall support the upload and download of intersection control parameters and controller features.
- h) The central software database shall be structured so that system monitoring data, such as speed and volumes from system detector stations, may be accessed and archived in a manner useful for real time publication to World Wide Web advanced traveler information system Web sites.
- i) The central software shall support the exchange of data.
- j) The central software shall support transit vehicle priority functions including orderly entry to and transition from phase extensions and truncations and real time transmission of vehicle priority data back to the central monitoring server.

1.8 Accessibility

The proposed system shall support regional access.

- a) The central software shall support remote monitoring and data sharing between NCDOT Division 3 and the City of Wilmington at the TMC.
- b) The central software shall allow operators at NCDOT Division 3 to control the traffic signal system with the City's permission on a case-by-case basis and during non-operating hours.

1.9 Communications

The proposed system shall be able to support advanced communication topologies as well as multiple different topologies.

- a) The central software shall support communications between the central application servers and field signal controllers.
- b) The central software shall support telephone line communications between the central applications servers and field devices with both broadband (T-1) and narrowband (dial-up) communications.
- c) The central software shall support wireless radio communications.

Below is a draft contract for the project. These terms and conditions shall become part of any contract entered into with a vendor.

STATE OF NORTH CAROLINA

CONTRACT NO: S6-0408

COUNTY OF NEW HANOVER

AGREEMENT BETWEEN
THE CITY OF WILMINGTON, NORTH CAROLINA
AND

THIS AGREEMENT, made this the ____ day of _____, 2008, by and between the CITY OF WILMINGTON, NORTH CAROLINA (hereinafter called "CITY"), a municipal Corporation located in New Hanover County, North Carolina; and 1. a corporation organized under the laws of the State of _____; 2. a non-profit corporation organized under the laws of the State of _____; 3. an unincorporated association having its principal place of business in _____; 4. a resident of _____; or 5. owner of a partnership organized under the laws of the State of _____, (hereinafter called "CONSULTANT").

W I T N E S S E T H:

Release and Indemnity

To the fullest extent permitted by law, ENGINEER shall release, indemnify, keep and save harmless the CITY, its agents, officials and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials or employees of the CITY or third persons, and to all property proximately caused by the negligent performance or nonperformance by ENGINEER (or by any person acting for the ENGINEER or for whom the ENGINEER is responsible). The ENGINEER expressly understands and agrees that any performance bond or insurance protection required by this agreement, or otherwise provided by the ENGINEER, shall in no way limit the (Variable's) responsibility to release, indemnify, keep and save harmless and defend the CITY as herein provided. The intention of the parties is to apply and construe broadly in favor of the CITY the foregoing provisions subject to the limitations, if any, set forth in N.C.G.S. 22B-1.

Personnel

It is mutually agreed that CONSULTANT is an independent contractor and not an agent of the CITY, and as such the CONSULTANT shall not be entitled to any CITY employment benefits, such as, but not limited to, vacation, sick leave, insurance, workmen's compensation, or pension and retirement benefits.

Conflict of Interest

No paid employee of the CITY shall have a personal or financial interest, direct or indirect, as a contracting party or otherwise, in the performance of this agreement.

Non-Waiver of Rights

It is agreed that the CITY'S failure to insist upon the strict performance of any provision of this agreement, or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this agreement.

Suspension or Termination of Agreement

1. In the event that review of the CONSULTANT'S performance shows non-conformance to the work required by this contract, the Scope of Services or other terms or conditions contained herein as a result of the CONSULTANT'S negligent errors, omissions or acts, the CONSULTANT shall be in breach of this agreement and the CITY may take corrective action as it deems necessary including, but not limited to, termination, withholding or reduction of payment.
2. The CITY shall also have the right to suspend this agreement upon written notice to the CONSULTANT. Such written notice shall state the reasons for suspension and allow for a review period of ten (10) days during which the CONSULTANT shall be provided with an opportunity to respond with an explanation or justification, and/or shall undertake any reasonable remedial action required by the CITY. If, in the opinion of the CITY the CONSULTANT remains in violation of this agreement at the completion of the ten (10) day suspension period, the CITY shall have the right to terminate this agreement whereupon all obligations of the CITY to the CONSULTANT shall cease.
3. In the event this project is terminated prior to completion of the services by the CONSULTANT, the CONSULTANT shall be paid for services performed to the date of termination. (In no event will the amount due CONSULTANT in the event of termination exceed that amount set forth in paragraph _____ of this agreement. CONSULTANT shall be paid for all reimbursables, as defined herein, which are due him.)
4. This agreement may be terminated without cause by either party with thirty (30) days written notice.
5. Nothing contained herein shall prevent the CITY from pursuing any other remedy which it may have against CONSULTANT including claims for damages.

Assignment of Agreement

It is mutually agreed by the parties hereto that this agreement is not transferable by either party to this agreement without the consent of the other party to this agreement. Provided, however, the parties specifically agree that this agreement may be transferred by the City to the Cape Fear Public Utilities Authority at any time within the term of the agreement.

Insurance Requirements

The amount of insurance to be provided for all coverages listed under this section shall be not less than \$1,000,000.00, unless otherwise specified, per occurrence for claims arising from bodily injury and/or property damage, including accidental death which may arise directly or indirectly from CONSULTANT'S performance of professional services under this contract. The CONSULTANT shall be responsible for any liability directly or indirectly arising out of professional services performed under this contract by a subcontractor which liability is not covered by the subcontractor's insurance.

1. The CONSULTANT shall maintain during the life of this contract WORKERS' COMPENSATION and EMPLOYER'S LIABILITY INSURANCE covering all of the CONSULTANT'S employees to be engaged in the work under this contract, providing the required statutory benefits under North Carolina Workers Compensation Law, and Employers Liability Insurance providing limits at least in the amount of \$500,000/500,000/500,000 applicable to claims due to bodily injury by accident or disease. Whenever work under this contract includes exposure to claims under the U. S. Longshoremen's and Harborworker's Act, such coverage shall be provided by appropriate endorsement to this policy.
2. The CONSULTANT shall maintain during the life of this contract COMMERCIAL GENERAL LIABILITY INSURANCE, including coverage for INDEPENDENT CONTRACTOR OPERATIONS, CONTRACTUAL LIABILITY assumed under the provisions of this contract, PRODUCTS/COMPLETED OPERATIONS LIABILITY and BROAD FORM PROPERTY DAMAGE LIABILITY insurance coverage. Exclusions applicable to explosion, collapse and underground hazards are to be deleted when the work to be performed involves these exposures. The CITY shall be named as an additional insured under this policy. Unless otherwise specified, this coverage shall be written providing liability limits at least in the amount of \$1,000,000 Combined Single Limits, applicable to claims due to bodily injury and/or property damage arising from an occurrence.
3. The CONSULTANT shall take out and maintain during the life of this agreement AUTOMOBILE LIABILITY INSURANCE. Such coverage shall be written on a comprehensive form covering owned, non-owned and leased vehicles.
4. The CONSULTANT shall take out and maintain an architect's/engineer's PROFESSIONAL LIABILITY INSURANCE policy, naming as insureds any professional individual or firm acting in the capacity of a consultant. This insurance shall provide liability insurance limits of not less than \$1,000,000.00 for claims for damages arising out of the performance of professional services rendered by the CONSULTANT, and shall be maintained for a period of two years following the date of acceptance of the project by the CITY. The CONSULTANT shall be responsible for securing and providing insurance certificates for any subcontractors employed on this project and shall furnish a copy of the insurance to the CITY. Subcontractors or consultants shall be insured to the limits referenced above. Failure of the CONSULTANT to provide these certificates may result in termination of the agreement or claims made against the CONSULTANT for any insurance claims made in conjunction with this project.

The CONSULTANT shall furnish the schedule of insurance carried under this contract in the form of a Certificate of Insurance attested by the insurance carrier or appointed agent, indicating the type, amount, class of operations covered, effective date and expiration date of all policies. This Certificate shall be in

six (6) counterparts and when the contract is signed by the CONSULTANT, a copy thereof shall be inserted in each copy of the contract documents and upon insertion shall become a part of such documents. The insurance carrier or its agent shall also certify on these documents that it will notify the CITY by registered mail at least twenty (20) days prior to any cancellation or non-renewal of these coverages.

Findings Confidential

All of the information, reports, cost estimates, plans, specifications and documents prepared or assembled by the CONSULTANT under this agreement are the property of the CITY. The CONSULTANT agrees that any such documents shall not be made available to any individual or organization other than appropriate CITY officials without prior written approval of the CITY. Nothing contained in this paragraph shall be construed to prevent the CONSULTANT from making information, reports and documents available to those individuals or firms directly concerned with the project involved with prior written agreement of the CITY.

Subcontracts

The CONSULTANT shall utilize no subcontracts for carrying out the services to be performed under this agreement without the written approval of the CITY.

Entire Agreement

This agreement constitutes the entire understanding of the parties.

Binding Effect

This agreement shall be binding upon the heirs, successors, assigns, agents, officials, employees, independent contractors, and subcontractors of the parties.

Continuing Obligation

The parties will make and execute all further instruments and documents required to carry out the purposes and intent of the agreement.

Reference

Use of the masculine includes feminine and neuter, singular includes plural; and captions and headings are inserted for convenience of reference and do not define, describe, extend or limit the scope of intent of the agreement.

Interpretation

All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina. In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.

Preaudit

This contract has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as evidenced by City Purchase Order No. _____ which is incorporated as if fully set out.

Minority Business Enterprise (MBE)

The CITY desires that minority business enterprises have the maximum opportunity to participate in the performance of this contract and will:

1. Promote affirmatively (where feasible) in accordance with North Carolina General Statute 143-129, together with all other applicable laws, statutes and constitutional provisions) the procurement of goods, services in connection with construction projects for minority owned business enterprises.
2. Insure that competitive and equitable bidding opportunities are followed to afford minority business enterprises participation. Strive to obtain contract and subcontract awards to minority business enterprises.
3. Identify and communicate to the minority business enterprises community procedures and contract requirements necessary for procurement of goods and services for construction projects and subcontracts.
4. Provide technical assistance as needed.
5. Promulgate and enforce contractual requirements that the general contractor or all construction projects shall exercise all necessary and reasonable steps to insure that minority business enterprises participate in the work required in such construction contracts.

The CONSULTANT shall insure that minority business enterprises have the maximum opportunity to compete for and perform portions of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. The CONSULTANT shall include this special provision, Minority Business Enterprise (MBE), in all subcontracts for this contract. Failure on the part of the CONSULTANT to carry out the requirements set forth in this special provision may constitute a breach of contract and after proper notification may result in termination of the contract or other appropriate remedy.

A minority business enterprise is defined as a business, with at least fifty (50%) percent owned and controlled by minority group members. The minority ownership must exercise actual day-to-day management. Minority group members may consist of Black Americans (an individual of the Black race of African origin), Hispanic Americans (an individual of a Spanish speaking culture and origin at parentage), Asian Americans (an individual of a culture, origin or parentage traceable to the areas of the Far East, Southeast Asia, the Indian subcontinent and the Pacific Islands), Indian Americans (an individual who is an enrolled member of a Federally recognized Indian tribe, or recognized by the tribe as being an Indian, as evidenced by a certification of a tribal leader), American Aleuts or any recognized minority group approved by the CITY.

A Woman Business Enterprise is a business with at least fifty (50%) percent owned and controlled by women who exercise actual day-to-day management.

The CONSULTANT shall exercise all necessary and reasonable steps to insure that Minority Business Enterprises and Woman Business Enterprises participate in the work required in this contract. The

CONSULTANT agrees by executing this contract that he will exercise all necessary and reasonable steps to insure that this special provision contained herein on Minority Business Enterprise is complied with.

Immunity Not Waived

This agreement is governmental in nature for the benefit of the public and is not intended to be for private profit or gain. Any fees charged hereunder are intended to reflect as closely as possible the CITY'S actual cost and neither party intends to waive its sovereign immunity by reason of this agreement.

Saving Clause

If any section, subsection, paragraph, sentence, clause, phrase or portion of this agreement is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

Other Laws and Regulations

CONSULTANT will comply with any and all applicable federal, state and local standards, regulations, laws, statutes and ordinances regarding toxic, hazardous and solid wastes and any other pollutants; public and private nuisances; health or safety; and zoning, subdivision or other land use controls.

CONSULTANT will take all reasonably necessary, proper or required safety, preventative and remedial measures in accordance with any and all relations and directives from the North Carolina Department of Human Resources, the United States Environmental Protection Agency, the North Carolina Division of Environmental Management, Health Departments, and any other federal, state or local agency having jurisdiction, to insure the prompt prevention or cessation (now or in the future) of violations of either the applicable provisions of such standards, regulations, laws, statutes, and ordinances or any permits or conditions issued thereunder.

Amendments

This agreement shall not be modified or otherwise amended except in writing signed by the parties.

Non-Discrimination

CONSULTANT will take affirmative action not to discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the benefits of the program which is the subject of this agreement because of race, creed, color, sex, age, disability or national origin. To the extent applicable, CONSULTANT will comply with all provisions of Executive Order No. 11246 the Civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable federal, state and local laws, ordinances, rules, regulations, orders, instructions, designations and other directives promulgated to prohibit discrimination. Violation of this provision, after notice, shall be a material breach of this agreement and may result, at CITY'S option, in a termination or suspension of this agreement in whole or in part.

IN WITNESS WHEREOF, the CITY has caused this agreement to be duly executed in its name and behalf and the CONSULTANT has caused this agreement to be duly executed in its name and behalf and its corporate seal to be hereunto affixed, and attested to.

CITY OF WILMINGTON, NORTH CAROLINA

BY: _____
Sterling B. Cheatham, City Manager

WITNESS:

Steven D. Bridges, Purchasing Manager

APPROVED AS TO FORM:

Thomas C. Pollard, City Attorney

CITY ACCOUNTANT'S CERTIFICATION

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act this the ____ day of _____, 2008.

Debra Mack, Finance Officer

Project No. _____

Account No. _____

Amount of Contract \$ _____

PO# _____

BY: _____
President, Vice President, Assistant Vice President

ATTEST:

Secretary, Assistant Secretary, Trust Officer

(CORPORATE SEAL)

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that the corporation's Secretary, Assist. Secretary or Trust Officer, Mr./Mrs./Ms. _____ personally came before me this day and acknowledged that he (she) is the _____ of _____, a Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, Vice President, or Assist. Vice President, Mr./Mrs./Ms. _____, sealed with its Corporate Seal, and attested by himself (herself) as its Secretary, Assist. Secretary or Trust Officer.

WITNESS my hand and official seal this the ____ day of _____, 2008.

Notary Public

My commission expires: _____

(SEAL)

The proposer supplies the information recorded below for use in the preparation of the contract documents, in event of contract award:

1. Please indicate type of business organization:

- (a) Proprietorship _____
- (b) Partnership _____
- (c) Corporation _____
- (d) Limited Liability Co. _____

2. If business is a Corporation, please answer the following questions:

Name and title of officers, authorized by Corporate Resolution, who will execute the contract on behalf of corporation (generally President and Secretary).

Firm is incorporated in what state?

If firm is a foreign corporation, does firm have a certificate of authority from the North Carolina Secretary of State? _____

3. If business is a Partnership, please answer the following:

Name in full or all general partners and addresses:

_____ Is this a limited or general partnership? _____

If a limited partnership, what is state of registration? _____

If business is a foreign limited partnership, does business have a certificate of authority from the North Carolina Secretary of State? _____

4. If business is a Proprietorship, please answer the following:

Name of owner: _____

5. If business is a limited liability company, please answer the following:

List the names and title of managers or member-managers who will execute the contract on behalf of the company? _____

What is state of organization? _____

If business is a foreign limited liability company, does business have a certificate of authority from the North Carolina Secretary of State? _____

6. For all bidders:

If the business operates under an assumed name, what is the assumed name? _____

Has a certificate of assumed name been filed in the New Hanover County Registry?

If so, please provide the recording information. Deed Book _____ at Page
_____.