

REQUEST FOR QUALIFICATIONS

Boiling Spring Lakes Dams Construction / Reconstruction Project

Boiling Spring Lakes, North Carolina

October 14, 2020



City of Boiling Spring Lakes
Boiling Spring Lakes Dams Construction/Reconstruction Project

To whom it may concern:

The City of Boiling Spring Lakes (City) is the Owner of Sanford Dam, North Lake Dam, Pine Lake Dam, and Upper Lake Dam, and is planning to solicit bids for furnishing and installing all materials, labor, tools, and equipment for the construction work necessary for the construction of the Boiling Spring Lakes Dams Construction/Reconstruction Project (Project). This Project will be bid as a single prime contract in accordance with North Carolina General Statutes (NC GS). The City intends to start construction in summer of 2021.

The City is requiring that prospective contractors interested in bidding on the Project submit to the City an Application for Prequalification (Application) which demonstrates the contractor's capabilities, capacity, and experience in completing construction work of similar nature, scale, and complexity. The submitted Application from each contractor (Applicant) will be used by the City to determine eligibility to bid based on the contractor's financial ability, organization, ownership, and experience and past performance.

Applications and requests for clarification (RFCs) related to this Request for Qualifications (RFQ) shall be received by the Prequalification Representative below by 2:00 PM on the respective due dates listed in the Prequalification Schedule below. Applications received after this time will be considered nonresponsive and will not be opened. Only printed Applications will be accepted – no fax or email copies will be considered. Requests for clarifications can be sent via email.

Prequalification Representative

Jeffrey E. Repp
City Manager
City of Boiling Spring Lakes
9 E. Boiling Spring Road
Southport, NC 28461
jrepp@cityofbsl.org

Link to RFQ Documents: <https://www.cityofbsl.org/hurricane-florence-dam-reconstruction-project-for-contractors>

Prequalification Schedule

RFQ Issue Date	Wednesday October 14, 2020
Due Date for Requests for Clarification (RFCs)	Wednesday October 28, 2020
Responses to RFCs Issued	Wednesday November 11, 2020
Due Date for Applications	Friday December 18, 2020
Responses to Applications Issued	Friday January 22, 2021

City of Boiling Spring Lakes
Boiling Spring Lakes Dams Construction/Reconstruction Project

The prequalification of an Applicant shall not constitute a determination that the Applicant will be deemed a responsive or a responsible bidder.

CITY OF BOILING SPRING LAKES, BRUNSWICK COUNTY, NORTH CAROLINA

Mr. Jeff Repp
City Manager

ATTACHMENTS:

- (1) Project Background and Scope
- (2) Application Requirements
- (3) Application Format and Content
- (4) Application Evaluation
- (5) Protest Procedure
- (6) Prequalification Application Form
- (7) Prequalification Scoring Matrix
- (8) NC GS 143-128 – Requirements for certain building contracts
- (9) NC GS 143-128.2 – Minority business participation goals
- (10) NC GS 143-135.8 – Prequalification
- (11) City of Boiling Spring Lakes Prequalification Policy

1. PROJECT BACKGROUND

The Boiling Spring Lakes Dams are located in the City of Boiling Spring Lakes in Brunswick County, North Carolina less than 10 miles north of Southport, North Carolina. Sanford Dam is the largest dam in the dam system and impounds Boiling Spring Lake, the largest lake in the City. The Military Ocean Terminal Sunny Point (MOTSU) access railroad traverses an embankment that is situated just downstream of Sanford Dam. The City and lake impounded by Sanford Dam take their name from the Boiling Spring, which was a well-established spring downstream of the MOTSU embankment that attracted local attention in the early 20th century prior to the development of the City. Since original construction of Sanford Dam around 1962, Boiling Spring Lake and Sanford Dam have experienced issues related to sinkholes which formed on or upstream of the dam or in the areas adjacent to the dam. North Lake Dam, Pine Lake Dam, Middle Lake Dam, and Upper Lake Dam were constructed upstream of Boiling Spring Lake around the same time as Sanford Dam. Middle Lake Dam is privately owned and is not a part of the Project. All other dams are owned and maintained by the City of Boiling Spring Lakes. The dams provided aesthetic and recreational benefits throughout the City's lake system.

During Hurricane Florence in September 2018, Sanford Dam suffered major failure due to overtopping and substantial embankment erosion that caused sudden release and loss of the Boiling Spring Lake impoundment. Subsequent failures occurred upstream at North Lake Dam, Pine Lake Dam, Middle Lake Dam, and Upper Lake Dam. North Lake Dam and Pine Lake Dam were temporarily repaired to re-open East Boiling Springs Road, a NCDOT maintained roadway, which traverses over the two dams. Sanford Dam and Upper Lake Dam currently remain breached. Each of the four Project dams are earthen embankment dams with culverts or pipe-and-riser spillways. The goal of the project is to reconstruct the City-owned dams in accordance with current North Carolina Dam Safety regulations.

2. PROJECT SCOPE

The anticipated type of contract is a Single Prime, Unit Price contract procured under a competitive, prequalification process. The construction cost of the project is currently estimated to be in excess of \$30 Million and is anticipated to be funded, in part, by State and/or Federal grants. The selected contractor should anticipate compliance with Federal procurement, minority participation and grant reimbursement documentation requirements. The Applicant will be required to furnish all labor, materials, and equipment required for completing the Project work. The general scope of the Project work includes the major components listed below.

- Mobilization, preparation of administrative, staging, and work areas, and establishing security and construction limits at each of the four dams
- Establishing and maintaining road closures and traffic controls for all four sites in accordance with the sequence of construction of the four dams, including acquisition of related permits
- Power and telecom utility relocation coordination
- Construction, operation, and maintenance of erosion and sediment control measures in accordance with an approved permit from the NC Department of Environmental Quality
- Development and implementation of control-of-water plans for each of the four dams, including design of temporary cofferdams, stream diversion elements, and dewatering measures consistent with conceptual design approved by NC Dam Safety
- Demolition/removal of existing spillway or culvert structures, foundations and appurtenances and construction of new cast-in-place concrete riser and box culvert spillways for all four dams, with a total of an estimated 4,000 cubic yards (CY) of structural concrete (North Lake Dam and Pine Lake Dam culverts will be salvaged and delivered to the City).
- Construction of new embankment sections, including the installation of clay core materials, drains and filters, with an estimated 110,000 CY of earthfill placement and an estimated 7,400 CY of drainfill placement
- Demolition of select existing roadway sections and construction of new roadway sections
- Construction of mix-in-place soilcrete panels through the upstream and downstream embankment slopes of all four dams, including development of soilcrete mix design, design and installation of temporary work platforms, installation of a demonstration panels, and sampling and laboratory testing of demonstration and production panels, with an estimated 26,000 CY of soilcrete.
- Installation of a cutoff wall through the entire length of Sanford Dam embankment crest up to 60 feet deep. The wall will extend through the embankment and foundation soils and approximately 20 feet into the underlying limestone, with an estimated 80,000 square feet of wall profile area. Work will also include installation of a demonstration section and sampling and testing of demonstration and production wall sections.
- Installation of new instrumentation (structure monitoring points, vibrating wire piezometers, automated data collection and transmission equipment) at Sanford Dam

1. COST REIMBURSEMENT

The Owner shall not be responsible for any cost incurred by the Applicant because of participation in this prequalification process. Each Applicant shall bear its own expense in connection with the preparation and submission of materials, provision of any supplemental information required, and/or participation in an interview if requested. The Owner shall have no liability for cost incurred by the Applicant in connection with the review and evaluation of prequalification materials and any findings and determinations made. This is not a solicitation for bid. All materials and information submitted during the prequalification process will become the property of the Owner and will not be returned to the Applicant.

2. PREQUALIFICATION BY OTHER AGENCIES

Submitting Applicants shall recognize that previous prequalification by another agency does not serve as a basis for qualifying applicants for the work described herein. Inclusion of such previous prequalifications in the Application will be given no consideration.

3. REQUIREMENTS FOR APPLICATION SUBMITTAL

- The Applicant must complete and submit by mail or hand-delivery in hardcopy one original and three copies (for a total of four sets) of the Application, including all associated forms and attachments.
- Applicants shall also submit one copy of their Application in PDF format contained on a compact disc, flash drive, or another form of portable data storage device. If applicable the applicant shall submit a redacted copy that contains the RFQ number and Applicant's name on the cover page and shall be clearly titled "Redacted Copy" per the requirement of Section 5 of this attachment.
- The Application shall be signed and submitted to the Prequalification Representative in a sealed container. The Applicant's name and the Project name (Boiling Spring Lakes Dams Construction/Reconstruction Project) must be clearly displayed on the outside of the container.
- Applications must be typed or neatly printed. The information presented should be clear, complete, concise and not misleading. All attachments submitted shall be identified with the name of the Applicant. Failure to submit a response on the official forms provided for that purpose shall be considered just cause for rejection of the response.

4. REQUESTS FOR CLARIFICATION

All requests for clarification (RFCs) of this RFQ must be submitted in writing via email or regular mail to the Prequalification Representative using the contract information in the RFQ cover letter and in accordance with the schedule indicated in the RFQ cover letter.

Any and all responses to RFCs and any supplemental instructions or changes will be issued in the form of written Addenda to this RFQ on the website indicated below. Addenda will also be sent to all Applicants via the email addresses furnished as a courtesy. It is the responsibility of all Applicants to check the website and their email for any Addenda prior to submission. No questions will be answered after the due date for RFCs.

<https://www.cityofbsl.org/request-for-proposals>

All Addenda so issued shall become part of the Application and must be signed by the Applicant and returned to the Owner with the Application. Failure to acknowledge receipt and inclusion of each Addendum may be grounds for rejection of the Application.

5. CONFIDENTIAL / PROPRIETARY INFORMATION

All materials submitted during the prequalification process become public records unless a claim for exemption is submitted by the Applicant for the applicable material. The Applicant should give specific attention to the identification of those portions of their Application which they consider to be confidential, proprietary information or trade secrets, and provide any justification of why such materials, upon request, should not be disclosed by the Owner under North Carolina public records laws. The Applicant must clearly indicate each and every section that is deemed confidential, proprietary or a trade secret as required by statute. It is NOT sufficient to preface your entire Application with a proprietary statement.

Applicants should briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. The redacted copy shall contain the RFQ number and Applicant's name on the cover page and shall be clearly titled "Redacted Copy." The Redacted Copy shall be provided at the same time the Applicant submits the Application and must only exclude or obliterate those exact portions that are claimed confidential, proprietary, or trade secret. The Application shall be responsible for defending its determination that the redacted portions of its documents, data or records are confidential, trade secret or otherwise not subject to disclosure. If the Application does not submit a Redacted Copy, the Owner may produce the entire documents, data or records submitted by the Applicant in answer to a public records request for these records.

If the Owner determines that a document that the Applicant has designated "confidential" or "trade secret" is not entitled to protection from public disclosure, the Owner will provide notice of that determination to the contact person designated by the Applicant, in any reasonable manner that the Owner can provide such notice, at least five business days prior to its public disclosure of the document. If the Applicant does not designate anyone to receive such notice, the Owner will not have any obligation to provide any notice of a determination of non-confidentiality. If the Applicant does not designate anyone to receive such notice, or if, within five business days after the designated person receives such notice, the Applicant does not initiate judicial proceedings to protect the confidentiality of the document, the Owner will not have any obligation to withhold the document from public disclosure.

By submitting to the Owner a document that the Applicant designates as "confidential" or "trade secret", the Applicant agrees that in the event a third party brings any action against the Owner or any of its agents, officials or employees to obtain disclosure of the document, the Applicant will indemnify, defend, and hold harmless the Owner, agent and each organization's affected officials and employees from all costs, including attorney's fees incurred by or assessed against any defendant, of defending against such action. The Applicant also agrees that at the Owner's request the Applicant will intervene in any such action and assume all responsibility for defending against it, and that the Applicant's failure to do so will relieve the Owner or any of its agents, officials or employees of all further obligations to protect the confidentiality of the document.

6. NOTICE OF SUBSTANTIAL CHANGES

If the Applicant experiences a material change in its debarment status, financial condition, corporate structure or personnel after the Application is submitted and prior to the award of the contract for the project, the Applicant shall notify the City of the change in writing at the time the change occurs or as soon thereafter as is reasonably practicable.

Failure to notify the City of any material change in the Applicant's debarment status, financial condition, corporate structure or personnel may constitute grounds for rescinding a "qualified to bid" rating or for rejection of a bid.

7. MISREPRESENTATION

If the Applicant knowingly makes a misrepresentation in submitting information to the City, or fails to provide all required information, or provides information that is misleading, such misrepresentation, omission or misleading information, such action will be sufficient grounds for rescinding a "qualified to bid" rating or for rejection of a bid submitted as a result of this prequalification.

8. COLLUSION AMONG APPLICANTS

More than one response from an individual, firm, partnership, corporation, or association under the same or different name will be rejected. Any or all responses will be rejected if there is any reason for believing that collusion exists among the Applicants. Participants in such collusion may not be considered in future bids for the same work. Each Applicant, by submitting a response, certifies that they are not a party to any collusive action or to any action that is otherwise unlawful.

9. NON-EXCLUSIVITY OF SUBCONTRACTORS

Nothing in this RFQ will preclude a firm acting as a subcontractor to be included as a subcontractor for two or more prime contractors who submit an Application.

1. FORMAT AND CONTENT

All Applications shall be bound or provided in a 3-ring binder. The Application shall be accompanied by a Transmittal Letter which is signed by one or more officers of the firm who are able to commit their organization to the Project. The Application shall be divided into sections, as described below. The Applicant shall complete the Prequalification Application Form (Attachment 6 to this RFQ) and provide additional information as requested below.

Section 1 – Introduction

The following information shall be provided in Section 1.

- Applicant name and address of the office location expected to lead the work effort for the Project.
- All names under which the Applicant conducts business.
- Names, addresses, and nature of any affiliated, parent, and or subsidiary companies.
- Provide the name, address, email address, and phone number(s) of the person who can respond authoritatively to any questions regarding this Application.

Submit a copy of the Applicant's corporate organization chart(s). Provide the number of employees identified by discipline down through field superintendents.

Section 2 – Minimum Criteria for Prequalification

Section 2 of the Prequalification Application Form lists the minimum requirements for licenses, bonds, insurance, and history in order for an Applicant's qualifications to be considered. Responding firms must meet all criteria in Section 2 in order to have their qualifications reviewed further. Failure to meet the requirements of Section 2 will result in responding firms being considered unqualified and their qualifications will receive no further review and they will not be allowed to bid the project.

Section 3 – Additional Company Information

Provide the requested information listed in Section 3 of the Prequalification Application Form, including:

- Type of work performed on a regular basis
- Safety record – EMR
- Safety record – OSHA records
- Financial information
- Litigation and claims history

Section 4 – Cost and Schedule Control

Provide the requested information listed in Section 4 of the Prequalification Application Form, including information on two example projects showing your capability in preparing and utilizing construction schedules using the critical path method and two example projects showing your standard operating procedures (SOPs) for tracking submittals requests for information (RFIs) and project costs.

Based on the information herein provide your opinion of anticipated overall duration of construction for this project. Provide associated development details regarding anticipated major milestones, critical path, and avoidance of conflicts between subcontractors. For schedule considerations, Applicants can assume that Sanford Dam, Upper Lake Dam, and Pine Lake Dam can be constructed concurrently. The closure of East Boiling Spring Road atop North Lake Dam is not allowed until Alton Lennon Road atop Sanford Dam has been reconstructed and opened. More details regarding potential maintenance of traffic routes for this project can be found in the Industry Day presentation on the City's website. The Applicant's opinion of anticipated construction duration will not affect consideration for prequalification.

Section 5 – Project Specific Requirements

Provide the project details for a minimum of 3 (three) projects of similar size and complexity to this project (i.e., experience on dam rehabilitation projects with a contract value in excess of \$10M) to demonstrate the requested experience as listed in Section 5 of the Prequalification Application Form. These projects should also include references that may be contacted by the Owner or their representative to discuss your performance. The Applicant can include up to three projects in which a proposed subcontractor performed the work.

Provide a narrative that discuss your proposed project organization chart for this project including key personnel. Provide a short bio-sketch or experience profile for the key members of your Project Team. If a key position may be filled by one of several potential members of the organization, provide names and bio-sketches of all such personnel. Full resumes of the proposed Project Superintendent, Project Manager and other key personnel shall be provided as an appendix to the Application.

In addition to the above information, the required Details of Past Projects sheets in Section 5 of the Prequalification Application Form shall include descriptions in sufficient detail to demonstrate the contractor's experience and qualifications in the following work items:

- Experience with constructing cutoff walls
- Experience with constructing mix-in-place soilcrete panels
- Experience in forming and pouring cast-in-place (CIP) concrete spillway structures, including:
 - CIP volume exceeding 5,000 cubic yards,
 - CIP concrete slabs with thickness in excess of four feet,
- Experience on dam rehabilitation projects requiring stream diversion using cofferdams at least 10 feet high.
- Experience with blanket and chimney drains and with filter diaphragms
- Experience with excavation and dewatering

Identify specialty and major subcontractors by function to perform any of the above tasks or other project components that are expected to exceed 10% of the contract value. If specific subcontractors are proposed, discuss the extent to which you have previously worked with these subcontractors and provide project descriptions in sufficient detail to allow their qualifications for their proposed tasks to be reviewed. Any replacement(s) of identified subcontractor(s) will require submittal and approval of prequalification documentation prior to performing their designated work.

Section 6 – Signature and Affidavit

Provide the requested information and complete the requirements of Section 6 of the Prequalification Application Form to acknowledge that all the answers provided in your application are true to the best of your knowledge. Any answers found to be falsified will bar you from being prequalified on this project.

Additional Information

The Applicant may add any additional information as desired. Do NOT enclose company brochures, advertising literature, web-site print-outs or other material not specifically relevant or applicable to this RFQ.

Links to web-sites, videos, DVD's or other electronic media may be included in the Application, although the Owner makes no commitment or guarantee that this material will be reviewed as part of the evaluation process. Such material will become the property of the Owner. Videos, DVD's, or other electronic media will not be returned.

2. EXHIBITS TO THE APPLICATION

At minimum, the following shall be included with the Application. Exhibits A and B are provided as attachments to this RFQ.

- Application Exhibit A – Prequalification Application Form (Attachment 6)
- Application Exhibit B – Prequalification Scoring Matrix (Attachment 7)
- Application Exhibit C – Resumes of Key Personnel

1. EVALUATION PROCESS

Applicants will be considered for prequalification on the basis of the evaluation criteria below. Successful prequalification will be based on the Owner or their representative being able to verify the submitted information by contacting the provided references.

- Is the prequalification submittal complete and responsive? Incomplete submittals will be considered unresponsive and will not be reviewed. The owner reserves the right to waive response informalities.
- Does the contractor have the minimum qualifications and ability to bond and insure the project as detailed herein (See Application Section 2)?
- For section 2 through 6, has the contractor demonstrated the minimum level of experiences and qualifications required to perform the work as evidenced by receiving a total point score in excess of 135 points as detailed in Attachment 7?
- Do the references confirm that the Contractor completed the work as listed in the submitted examples of past projects, without issues related to the work proceeding in an orderly manner, schedule, quality, or budget? Negative references may be grounds for disqualification.

1. INITIAL PROTEST

An Applicant may protest the denial of prequalification in the manner described below.

- A written protest must be received by Jeff Repp, City Manager (jrepp@cityofbsl.org) within two business days of issuance of notice of denial. The written protest shall clearly identify the Project, clearly articulate the reasons for the protest, and be accompanied by any documents or additional information in support of the Applicant's position.
- The City Manager will contact the Applicant and set up a date and time to discuss the protest.
- If upon review, the City Manager determines that the firm meets the criteria for prequalification, the Applicant shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the City Manager upholds the denial, the Applicant shall be notified in writing by e-mail.

2. APPEAL

If the Applicant desires further review after receiving the decision of the City Manager, the Applicant may request an administrative review and final decision by the City Manager as follows:

- A written request for administrative review must be received by the City Manager via email within two business days from the Applicant's receipt of the City Manager's response to the initial protest. The request for administrative review shall clearly identify the Project, clearly articulate the reason(s) for the review, and be accompanied by any documents or additional information in support of the Applicant's position.
- The City Manager will contact the Applicant and set up a date and time to discuss the protest.
- If upon review, the City Manager determines that the firm meets the criteria for prequalification, the Applicant shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the City Manager upholds the denial, the Applicant shall be notified in writing by e-mail. This decision shall be final.

3. GENERAL RULES FOR PROTEST

- Applicants shall provide at least two email addresses for use by the City Manager in communicating with the firm during the protest process.
- The bid opening cannot occur until the protest process is completed.
- The bid opening must be scheduled in order to allow sufficient time for an Applicant that is prequalified as a result of a protest to submit a bid on the Project.

ATTACHMENT 6

PREQUALIFICATION DUE DATE/TIME: _____
(date) (time)

Contact Name receiving prequalifying packages

Fax Number

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SECTION 1. GENERAL COMPANY INFORMATION

Primary/Main office location

Company Name

Physical Address

Mailing Address

City/State Zip Code + 4

(_____) _____
Phone number

(_____) _____
Fax number

Primary Contact Name

Secondary Contact Name

Primary Contact Email Address

Secondary Contact Email Address

Organization

Business type (check box)

☐ Corporation ☐ Partnership ☐ Limited Liability Company ☐ Sole Proprietor ☐ Joint Venture

Is your firm owned or controlled by a parent or any other organization? ☐ Yes ☐ No

If yes, describe Ownership: _____

List all other names your firm has operated as for the past five (5) years: _____

How long has the firm been in business in its current organizational structure? : _____

Provide the full legal names of all individuals authorized to sign legal documents for the Company:

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

Licensing Information

Please provide all North Carolina professional licenses required for you to perform your services:

Name of licensee /NC License number

License Limit/Level

Has any license ever been denied or revoked? ☐ Yes ☐ No

If yes, please describe: _____

SECTION 2. MINIMUM CRITERIA FOR PREQUALIFICATION

All of the questions in this Section must be addressed in order to be considered a completed application.

- A. Is your firm registered to do business in the State of North Carolina? ☐ Yes ☐ No
- B. Is your firm a licensed contractor in the State of North Carolina? ☐ Yes ☐ No
- C. Does your company have the resources to bond this project? ☐ Yes ☐ No
- D. Please attach a **surety letter**, dated within the last 30 days, from your surety company, signed by their Attorney in Fact, verifying their willingness to issue sufficient payment and performance bonds for this project, on behalf of your firm and the dollar limits of that bond commitment, both single and aggregate. Surety company bond rating shall be rated "A" or better under the A.M. Best Rating system or The Federal Treasury List.
- a. Have you attached a surety letter? ☐ Yes ☐ No
- b. Surety bond rating A or better under the A.M. Best Rating system or The Federal Treasury List?
☐ Yes ☐ No
- E. The minimum requirements of coverage and anticipated contract language related to insurance and indemnification are presented below. Firms must indicate that they can provide evidence of adequate insurance coverage by attaching a copy of their insurance certificate or commitment to provide the required insurance if selected as the Successful Bidder.

INSURANCE: The Successful Bidder (Contractor) agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, auto liability, professional liability, workers' compensation, employer's liability, and umbrella coverage with at least the minimum limits shown below. The Contractor shall furnish the City with certificates of insurance for each type of insurance described herein, with the City listed as Certificate Holder and as an additional insured on the Contractor's general liability policy and provide a waiver of subrogation on the Contractor's general liability and workers' compensation policy. In the event of bodily injury or property damage loss caused by the Contractor's negligent acts or omissions in connection with Contractor's services performed under this Agreement, the Contractor's Liability insurance shall be primary with respect to any other insurance which may be available to the City, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes or nonrenewal, the Contractor and Contractor's insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed until the Contractor has furnished to the City the above referenced certificates of insurance and associated endorsements, in a form suitable to the City.

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

- | | |
|--|--------------|
| 1. Commercial General Liability, Occurrence | |
| Each occurrence: | \$1,000,000 |
| Damage to Rented Premises (each occurrence) | \$100,000 |
| Medical Expense (any one person) | \$5,000 |
| Personal and Advertising Injury | \$1,000,000 |
| General Aggregate | \$2,000,000 |
| Products and Completed Operations, Aggregate | \$2,000,000 |
| 2. Automobile Liability for: | |
| Any Auto, Hired Autos, Non-Owned Autos | |
| Combined Single Limit, Each Accident | \$1,000,000 |
| 3. Excess/Umbrella Liability, Occurrence | |
| No deductible, \$0 Retention | |
| Each Occurrence | \$10,000,000 |
| Aggregate | \$10,000,000 |
| 4. Workman's Compensation | |
| State: | Statutory |
| Applicable Federal : | Statutory |
| 5. Employer's Liability: | |
| Each Accident | \$100,000 |
| Disease – Each Employee | \$100,000 |
| Disease – Policy Limit | \$500,000 |

INDEMNIFICATION: The Successful Bidder (Contactor) shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors, agents and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the Contractor or any employee, agent or assign of the Contractor. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by the City, its officers or employees. Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.

- a. Is your company capable of meeting the minimum Insurance requirements? ☐ Yes ☐ No
- b. Have you attached a copy of your insurance certificate? ☐ Yes ☐ No
- F. Is your present company, its officers, owners, or agents ever been barred from bidding public work in North Carolina?
☐ Yes ☐ No
- G. Has your present company, its officers, owners, or agents been convicted of charges relating to conflicts of interest, bribery, or bid-rigging in the last five years? ☐ Yes ☐ No

SECTION 3. ADDITIONAL COMPANY INFORMATION

A. Type of Work Performed on a Regular Basis

Primary Scope of Work: _____

Secondary Scope of Work: _____

Other Scope of Work: _____

What type of work do you self-perform? _____

Number of dam rehabilitation projects completed in the last 3 years? _____

B. Safety Record

- a. List your company's Experience Modification Rate (EMR) for past three years. (Attach OSHA 300 Log for the last 3 years.)

_____	_____	_____
Current Year EMR	Previous Year EMR	Year Before Last EMR

- b. Please provide proof of Experience Modification Rate of the last 3 years. Is required OSHA reporting to substantiate EMR included? ☐ Yes ☐ No

C. Safety Record

- a. Have your company ever been fined by OSHA? ☐ Yes ☐ No

- b. List any OSHA fines and Jobsite fatalities in the past 3 years with an explanation:

- c. Please attached your OSHA 300 log for the last three years. Have you attached your OSHA 300 log for the last three years? ☐ Yes ☐ No

D. Financials

- a. Attach latest balance sheet and income statement, if available, based on company type. Audited statements preferred. If not available, attach a copy of the latest annual renewal submission to the relevant licensing board. (Firm must submit financial data and may clearly indicate a request for confidentiality to avoid this item from becoming part of a public record.)

Have you attached a balance sheet? ☐ Yes ☐ No

E. Litigation/Claims

- a. Has your company been involved in any judgments, claims, arbitration mediation proceedings, or suits within the last five years, whether resolved or still pending resolution? ☐ Yes ☐ No

If yes, please state the project name(s), year(s), case number and reason why: _____

- b. Has your company ever failed to complete construction contract within the last 5 years? ☐ Yes ☐ No

If yes, please provide project name(s), year(s), and reason why: _____

- c. Have you ever paid liquidated damages or compensation to an Owner due to Contractor's lost time (at no fault of the owner) on any project within the last 3 years? ☐ Yes ☐ No

If yes, please state the project name(s), year(s), and reason why. _____

SECTION 4 DEMONSTRATE ABILITY TO CONTROL COST/SCHEDULE ON COMPLEX PROJECTS

A. Provide two example projects showing the capability of preparing critical path methods construction schedules.

#1 –Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	
Software Utilized (if applicable)	
#2 –Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	
Software Utilized (if applicable)	

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

B. Provide two example projects that demonstrate SOPs used for tracking submittals, RFIs, project costs, etc.

#1 –Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	
#2 –Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	

SECTION 5. PROJECT SPECIFICS REQUIREMENTS

A. The assigned project superintendent for this project shall be:_____.

Please include a resume of the assigned project superintendent for this project.

Have you included a resume? ☐ Yes ☐ No

The experience this superintendent has on this specific type of project is:

_____0-2 _____3-4 _____ 5-10 _____>10 years.

B. The assigned project manager for this project shall be _____.

Please include a resume of the assigned project manager. Have you included a resume? ☐ Yes ☐ No

The experience this project manager has on this specific type of project is:

_____0-2 _____3-4 _____ 5-10 _____>10 years

Similar Projects

C. List up to three current or completed projects performed as general contractor on a dam rehabilitation project with a contract value of at least \$10M in the last 10 years. Include contact information from owner or engineer.

#1 –Similar - Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

#2 –Similar - Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	

#3 –Similar - Project Name	
Description of Work Performed	
Contract Delivery Method (CM/GC)?	
Owner Name/ Representative	
Owner Address/Phone #/Email	
Engineer Name / Representative	
Engineer Address/Phone #/Email	
Contract Dollar Value	
Percentage Complete	
Current Anticipated Completion Date	

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

Details of Past Projects

D. Experience of general contractor or specialty subcontractor in construction of cutoff walls through a dam and into the dam's foundation.

- a. Describe two or more projects where your company was involved construction of a cutoff wall using a construction method other than a long-arm backhoe to a depth of at least 50 feet. Included contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Wall Profile Area in Square Feet: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Wall Profile Area in Square Feet: _____ Total Construction Cost: _____

Dam Project #3:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Wall Profile Area in Square Feet: _____ Total Construction Cost: _____

E. Experience of general contractor or specialty subcontractor in construction mix-in-place soilcrete panels through a dam and into the dam's foundation.

- b. Describe two or more projects where your company was involved construction of mix-in-place soilcrete panels to a depth of at least 40 feet. Included contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Soilcrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Soilcrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #3:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Soilcrete Cubic Yards: _____ Total Construction Cost: _____

Prequalification Application Form

F. Experience with forming and pouring cast-in-place (CIP) concrete spillway structures that included water stops and complex forming and/or reinforcement.

- a. Describe two or more projects where your company was involved in pouring more than 5,000 cy of reinforced concrete. Included contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #3:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

- b. Describe two or more projects where your company was involved in pouring concrete slabs with thickness of more than four feet. Included contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

Dam Project #3:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Concrete Cubic Yards: _____ Total Construction Cost: _____

Prequalification Application Form

G. Experience in dam construction or dam rehabilitation project that requires stream diversion using cofferdams.

- a. Describe two or more projects requiring a cofferdam with a height of at least 10 feet. Include contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Height of Cofferdam in Feet: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Height of Cofferdam in Feet: _____ Total Construction Cost: _____

Dam Project #3:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Height of Cofferdam in Feet: _____ Total Construction Cost: _____

- b. Describe one or more projects involving a steel sheet pile cofferdam. Include contact information from owner or engineer.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Max. Sheet Pile Length in Feet: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Max. Sheet Pile Length in Feet: _____ Total Construction Cost: _____

**Boiling Spring Lakes Dams Construction/Reconstruction
Prequalification Application Form**

ATTACHMENT 6

H. Experience of general contractor or specialty subcontractor in construction of drains.

- a. Describe one or more projects where your company was involved in the installation of blanket and chimney drains.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Drainfill Cubic Yards: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Drainfill Cubic Yards: _____ Total Construction Cost: _____

- b. Describe one or more projects where your company was involved in the installation of a filter diaphragm.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Drainfill Cubic Yards: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Number of Drainfill Cubic Yards: _____ Total Construction Cost: _____

I. Experience of general contractor or specialty subcontractor in excavation and dewatering.

- a. Describe one or more projects where your company was involved in the dewatering and maintaining dry conditions in an excavation using a method other than sumps.

Dam Project #1:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Depth of Excavation in Feet: _____ Total Construction Cost: _____

Dam Project #2:

Description: _____
Subcontractor or self-performed: _____
Owner/Contact Name/email and phone: _____
Year Completed: _____ Depth of Excavation in Feet: _____ Total Construction Cost: _____

SECTION 6. SIGNATURE AND AFFIDAVIT

By signing this document, you are acknowledging that all answers are true to the best of your knowledge. **Any answers found to be falsified will bar you from being prequalified on this project.**

Company Name (as licensed in NC)

Physical Address

Mailing Address

a. Dated this day of: _____

Submitted by: _____

Signature By Authorized Officer

Print Title of Authorized Officer

Phone: _____
Contact person's phone number

E-mail: _____
Contact person's E-mail address

b. Notary Certification:
North Carolina
_____ County

I, a Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal, this the _____ day of _____, 20 ____.

(Official Notary Seal or Stamp)

Signature of Notary Public
My commission expires ____, 20 ____

Boiling Spring Lakes Dams Construction/Reconstruction Prequalification Scoring Matrix

Date:

Form #	Description	Score Condition	Max. Score	1	2	3	4	5
				Contractor Name	Contractor Name	Contractor Name	Contractor Name	Contractor Name
				Pts	Pts	Pts	Pts	Pts
SECTION 2. MINIMUM CRITERIA FOR PREQUALIFICATIONS								
A	Is your firm registered to do business in the State of North Carolina?	(If "No" then Disqualified otherwise 1)	1					
B	Is your firm a licensed contractor in the State of North Carolina?	(If "No" then Disqualified otherwise 1)	1					
C	Does your company have the resources to bond this project?	(If "No" then Disqualified otherwise 1)	1					
D	Surety Bond Rating							
	a) Surety letter attached?	(If "No" then Disqualified otherwise 1)	1					
	b) Surety bond rating A or better under the A.M. Best Rating system or The Federal Treasury List?	(If "No" then Disqualified otherwise 1)	1					
E	Insurance and indemnification							
	a) Is the company capable of meeting the minimum insurance requirements?	(If "No" then Disqualified otherwise 1)	1					
	b) Copy of company insurance certificate attached?	(If "No" then Disqualified otherwise 1)	1					
F	Has your present company, its officers, owners, or agents ever been barred from bidding public work in North Carolina.	(If "Yes" then Disqualified otherwise 1)	1					
G	Has your present company, its officers, owners, or agents been convicted of charges relating to conflicts of interest, bribery, or bid-rigging in the last five years.	(If "Yes" then Disqualified otherwise 1)	1					
			9					
SECTION 3. ADDITIONAL COMPANY INFORMATION								
A	Type of work performed on a regular basis.	(1 dam rehabilitation project completed in last three years)	5					
B	Safety Records- Experience Modification Rate of last 3 years (15 point max). Attached OSHA safety records to substantiate EMR rating.	(If present rate <1, 5 points, otherwise 0 points)	5					
		(If last rate <0.9, 5 points, otherwise 0 points)	5					
		(If year before last rate <0.8, 5 points, otherwise 0 points)	5					
C	Safety Records- Has your company ever been fined by OSHA?	(If YES then -10 points, if NO then 0 points)	0					
D	Financials- Is the latest balance sheet and income statement attached?	(If YES then 2 points, if NO 0 points)	2					
E	Have you/your company had any litigation/claims within the last 5 years?	(If 0 then 5 points, if 1 then 0 points and if >1 then -5 points)	5					
F	Have you/your company failed to complete construction contract within the last 5 years.	(If NO then 5 points, if YES -5 points)	5					
G	Has your company paid liquidated damages on a project within the last 3 years?	(If YES then 0 points; if NO 2 points)	2					
		Subtotal	34	0	0	0	0	0
SECTION 4. DEMONSTRATE ABILITY TO CONTROL COST/SCHEDULE ON COMPLEX PROJECTS								
A	Provided two examples showing capability of preparing critical path method construction schedules.	(If 2 examples provided then 5 points, otherwise 0 points)	5					
B	Provides two example projects that demonstrate SOPs used for tracking submittals, RFIs, project costs, etc.	(If 2 examples provided then 5 points, otherwise 0 points)	5					
		Subtotal	10	0	0	0	0	0

Boiling Spring Lakes Dams Construction/Reconstruction Prequalification Scoring Matrix

Date:

Form #	Description	Score Condition	Max. Score		1	2	3	4	5
					Contractor Name	Contractor Name	Contractor Name	Contractor Name	Contractor Name
					Pts	Pts	Pts	Pts	Pts
SECTION 5. PROJECT SPECIFIC REQUIREMENTS									
A	Superintendent Has 3 years dam rehabilitation experience and resume attached	(If YES then 5 points otherwise 0 points)	5						
B	Project manager has 5 years dam rehabilitation experience and resume attached	(If YES then 5 points otherwise 0 points)	5						
C	Experience as general contractor on a dam rehabilitation project with a contract value of at least \$20M in the last 10 years. All required information provided?	(10 points per project with a max of 30 points. If left blank, 0 points)	30						
D	Experience with installing cutoff wall through dam and foundation to depth of at least 50 feet using method other than long-arm backhoe.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
E	Experience with installing mix-in-place soilcrete panels through dam and foundation to depth of at least 40 feet.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
F	Experience with forming and pouring cast-in-place concrete spillway structures that included water stops and complex forming and/or reinforcement								
	1) Two or more project examples provided involving pouring more than 5,000 cy of reinforced concrete.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
	2) Two or more project examples provided involving pouring slabs with thickness of more than four feet.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
G	Experience in dam construction or dam rehabilitation project that requires stream diversion using cofferdams.								
	1) Two or more project examples provided involving a cofferdam with a height of at least 10 feet.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
	2) One or more project examples provided involving a steel seet pile cofferdam.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
F	Experience in construction of drains								
	1) One or more project examples provided involving the installation of blanket and chimney drains.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
	2) One or more project examples provided involving the installation of a filter diaphragm.	(All required information provided? If "Yes" then 10 points otherwise 0 points)	10						
G	Experience dewatering and maintaining dry conditions in an excavation using a method other than sumps.	(All required information provided? If "Yes" then 5 points otherwise 0 points)	10						
		Subtotal	130		0	0	0	0	0
SECTION 6. SIGNATURE									
	Fully executed including notary	(If YES then 3 points, if NO then 0)	3						
		Subtotal	3		0	0	0	0	0
	TOTAL POINTS		186		0	0	0	0	0

Article 8.

Public Contracts.

§ 143-128. Requirements for certain building contracts.

(a) Preparation of specifications. – Every officer, board, department, commission or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration or repair of any buildings for the State, or for any county, municipality, or other public body, shall have prepared separate specifications for each of the following subdivisions or branches of work to be performed:

- (1) Heating, ventilating, air conditioning and accessories (separately or combined into one conductive system), refrigeration for cold storage (where the cold storage cooling load is 15 tons or more of refrigeration), and all related work.
- (2) Plumbing and gas fittings and accessories, and all related work.
- (3) Electrical wiring and installations, and all related work.
- (4) General work not included in subdivisions (1), (2), and (3) of this subsection relating to the erection, construction, alteration, or repair of any building.

Specifications for contracts that will be bid under the separate-prime system or dual bidding system shall be drawn as to permit separate and independent bidding upon each of the subdivisions of work enumerated in this subsection. The above enumeration of subdivisions or branches of work shall not be construed to prevent any officer, board, department, commission or commissions from preparing additional separate specifications for any other category of work.

(a1) Construction methods. – The State, a county, municipality, or other public body shall award contracts to erect, construct, alter, or repair buildings pursuant to any of the following methods:

- (1) Separate-prime bidding.
- (2) Single-prime bidding.
- (3) Dual bidding pursuant to subsection (d1) of this section.
- (4) Construction management at risk contracts pursuant to G.S. 143-128.1.
- (5) Alternative contracting methods authorized pursuant to G.S. 143-135.26(9).
- (6) Design-build contracts pursuant to G.S. 143-128.1A.
- (7) Design-build bridging contracts pursuant to G.S. 143-128.1B.
- (8) Public-private partnership construction contracts pursuant to G.S. 143-128.1C.

(a2) Repealed by Session Laws 2012-142, s. 9.4(g), effective July 1, 2012.

(b) Separate-prime contracts. – When the State, county, municipality, or other public body uses the separate-prime contract system, it shall accept bids for each subdivision of work for which specifications are required to be prepared under subsection (a) of this section and shall award the respective work specified separately to responsible and reliable persons, firms or corporations regularly engaged in their respective lines of work. When the estimated cost of work to be performed in any single subdivision or branch for which separate bids are required by this subsection is less than twenty-five thousand dollars (\$25,000), the same may be included in the contract for one of the other subdivisions or branches of the work, irrespective of total project cost. The contracts shall be awarded to the lowest responsible, responsive bidders, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2. Bids may also be accepted from and awards made to separate contractors for other categories of work.

Each separate contractor shall be directly liable to the State of North Carolina, or to the county, municipality, or other public body and to the other separate contractors for the full G.S. 143-128

performance of all duties and obligations due respectively under the terms of the separate contracts and in accordance with the plans and specifications, which shall specifically set forth the duties and obligations of each separate contractor. For the purpose of this section, "separate contractor" means any person, firm or corporation who shall enter into a contract with the State, or with any county, municipality, or other public entity to erect, construct, alter or repair any building or buildings, or parts of any building or buildings.

(c) Repealed by Session Laws 2001-496, s. 3, effective January 1, 2001.

(d) Single-prime contracts. – All bidders in a single-prime project shall identify on their bid the contractors they have selected for the subdivisions or branches of work for:

- (1) Heating, ventilating, and air conditioning;
- (2) Plumbing;
- (3) Electrical; and
- (4) General.

The contract shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor's bid is later determined by the contractor to be nonresponsive or nonresponsive or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor. The terms, conditions, and requirements of each contract between the contractor and a subcontractor performing work under a subdivision or branch of work listed in this subsection shall incorporate by reference the terms, conditions, and requirements of the contract between the contractor and the State, county, municipality, or other public body.

When contracts are awarded pursuant to this section, the public body shall make available to subcontractors the dispute resolution process as provided for in subsection (f1) of this section.

(d1) Dual bidding. – The State, a county, municipality, or other public entity may accept bids to erect, construct, alter, or repair a building under both the single-prime and separate-prime contracting systems and shall award the contract to the lowest responsible, responsive bidder under the single-prime system or to the lowest responsible, responsive bidder under the separate-prime system, taking into consideration quality, performance, compliance with G.S. 143-128.2, and time specified in the bids to perform the contract. In determining the system under which the contract will be awarded to the lowest responsible, responsive bidder, the public entity may consider cost of construction oversight, time for completion, and other factors it considers appropriate. The bids received as separate-prime bids shall be received, but not opened, one hour prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the public entity under the separate-prime system. The provisions of subsection (b) of this section shall apply to separate-prime contracts awarded pursuant to this section and the provisions of subsection (d) of this section shall apply to single-prime contracts awarded pursuant to this section.

(e) Project expeditor; scheduling; public body to resolve project disputes. – The State, county, municipality, or other public body may, if specified in the bid documents, provide for assignment of responsibility for expediting the work on a project to a single responsible and reliable person, firm or corporation, which may be a prime contractor. In executing this responsibility, the designated project expeditor may recommend to the State, county, municipality, or other public body whether payment to a contractor should be approved. The G.S. 143-128

project expediter, if required by the contract documents, shall be responsible for preparing the project schedule and shall allow all contractors and subcontractors performing any of the branches of work listed in subsection (d) of this section equal input into the preparation of the initial schedule. Whenever separate contracts are awarded and separate contractors engaged for a project pursuant to this section, the public body may provide in the contract documents for resolution of project disputes through alternative dispute resolution processes as provided for in subsection (f1) of this section.

(f) Repealed by Session Laws 2001-496, s. 3, effective January 1, 2001.

(f1) Dispute resolution. – A public entity shall use the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11), or shall adopt another dispute resolution process, which shall include mediation, to be used as an alternative to the dispute resolution process adopted by the State Building Commission. This dispute resolution process will be available to all the parties involved in the public entity's construction project including the public entity, the architect, the construction manager, the contractors, and the first-tier and lower-tier subcontractors and shall be available for any issues arising out of the contract or construction process. The public entity may set a reasonable threshold, not to exceed fifteen thousand dollars (\$15,000), concerning the amount in controversy that must be at issue before a party may require other parties to participate in the dispute resolution process. The public entity may require that the costs of the process be divided between the parties to the dispute with at least one-third of the cost to be paid by the public entity, if the public entity is a party to the dispute. The public entity may require in its contracts that a party participate in mediation concerning a dispute as a precondition to initiating litigation concerning the dispute.

(g) Exceptions. – This section shall not apply to:

- (1) The purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site.
- (2) The erection, construction, alteration, or repair of a building when the cost thereof is three hundred thousand dollars (\$300,000) or less.
- (3) The erection, construction, alteration, or repair of a building by The University of North Carolina or its constituent institutions when the cost thereof is five hundred thousand dollars (\$500,000) or less.

Notwithstanding the other provisions of this subsection, subsection (f1) of this section shall apply to any erection, construction, alteration, or repair of a building by a public entity. (1925, c. 141, s. 2; 1929, c. 339, s. 2; 1931, c. 46; 1943, c. 387; 1945, c. 851; 1949, c. 1137, s. 1; 1963, c. 406, ss. 2-7; 1967, c. 860; 1973, c. 1419; 1977, c. 620; 1987 (Reg. Sess., 1988), c. 1108, ss. 4, 5; 1989, c. 480, s. 1; 1995, c. 358, s. 4; c. 367, ss. 1, 4, 5; c. 509, s. 79; 1998-137, s. 1; 1998-193, s. 1; 2001-496, ss. 3, 13; 2002-159, s. 42; 2007-322, s. 3; 2012-142, s. 9.4(g); 2013-401, s. 3.)

§ 143-128.2. Minority business participation goals.

(a) The State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State. A local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars (\$100,000) or more, shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of the work; provided, however, a local government unit may apply a different verifiable goal that was adopted prior to December 1, 2001, if the local government unit had and continues to have a sufficiently strong basis in evidence to justify the use of that goal. On State building projects and building projects subject to the State goal requirement, the Secretary shall identify the appropriate percentage goal, based on adequate data, for each category of minority business as defined in G.S. 143-128.2(g)(1) based on the specific contract type.

Except as otherwise provided for in this subsection, each city, county, or other local public entity shall adopt, after a notice and public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for building projects.

Each entity required to have verifiable percentage goals under this subsection shall make a good faith effort to recruit minority participation in accordance with this section or G.S. 143-131(b), as applicable.

(b) A public entity shall establish prior to solicitation of bids the good faith efforts that it will take to make it feasible for minority businesses to submit successful bids or proposals for the contracts for building projects. Public entities shall make good faith efforts as set forth in subsection (e) of this section. Public entities shall require contractors to make good faith efforts pursuant to subsection (f) of this section. Each first-tier subcontractor on a construction management at risk project shall comply with the requirements applicable to contractors under this subsection.

(c) Each bidder, which shall mean first-tier subcontractor for construction manager at risk projects for purposes of this subsection, on a project bid under any of the methods authorized under G.S. 143-128(a1) shall identify on its bid the minority businesses that it will use on the project and an affidavit listing the good faith efforts it has made pursuant to subsection (f) of this section and the total dollar value of the bid that will be performed by the minority businesses. A contractor, including a first-tier subcontractor on a construction manager at risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

- (1) Within the time specified in the bid documents, either:
 - a. An affidavit 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. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith or effort; or
 - b. Documentation of its good faith effort to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

- (2) Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

(d) No subcontractor who is identified and listed pursuant to subsection (c) of this section may be replaced with a different subcontractor except:

- (1) If the subcontractor's bid is later determined by the contractor or construction manager at risk to be nonresponsible or nonresponsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or
- (2) With the approval of the public entity for good cause.

Good faith efforts as set forth in G.S. 143-131(b) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the public entity of its good faith efforts pursuant to G.S. 143-131(b).

(e) Before awarding a contract, a public entity shall do the following:

- (1) Develop and implement a minority 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.
- (3) At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the public entity 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:
 - a. A description of the work for which the bid is being solicited.
 - b. The date, time, and location where bids are to be submitted.
 - c. The name of the individual within the public entity who will be available to answer questions about the project.
 - d. Where bid documents may be reviewed.
 - e. Any special requirements that may exist.
- (4) Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.

(f) A public entity shall require bidders to undertake the following good faith efforts to the extent required by the Secretary on projects subject to this section. The Secretary shall adopt rules establishing points to be awarded for taking each effort and the minimum number of points required, depending on project size, cost, type, and other factors considered relevant by the Secretary. In establishing the point system, the Secretary may not require a contractor to earn more than fifty (50) points, and the Secretary must assign each of the efforts listed in subdivisions (1) through (10) of this subsection at least 10 points. The public entity may require that additional good faith efforts be taken, as indicated in its bid specifications. 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.

- (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.
 - (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation.
 - (4) Working 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) Attending any prebid meetings scheduled by the public owner.
 - (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
 - (7) Negotiating in good faith with interested minority businesses and not rejecting 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) 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.
 - (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.
 - (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.
- (g) As used in this section:
- (1) The term "minority business" means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; 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.
 - (2) The term "minority person" means 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, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original Indian peoples of North America; or

e. Female.

- (3) The term "socially and economically disadvantaged individual" means the same as defined in 15 U.S.C. 637.

(h) The State, counties, municipalities, and all other public bodies shall award public building contracts, including those awarded under G.S. 143-128.1, 143-129, and 143-131, without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3. Nothing in this section 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.

(i) Notwithstanding G.S. 132-3 and G.S. 121-5, all public records created pursuant to this section shall be maintained by the public entity for a period of not less than three years from the date of the completion of the building project.

(j) Except as provided in subsections (a), (g), (h) and (i) of this section, this section shall only apply to building projects costing three hundred thousand dollars (\$300,000) or more. This section shall not apply to the purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site. (2001-496, s. 3.1.)

§ 143-135.8. Prequalification.

(a) Except as provided in this section, bidders may not be prequalified for any construction or repair work project.

(b) A governmental entity may prequalify bidders for a particular construction or repair work project when all of the following apply:

- (1) The governmental entity is using one of the construction methods authorized in G.S. 143-128(a1)(1) through G.S. 143-128(a1)(3).
- (2) The board or governing body of the governmental entity adopts an objective prequalification policy applicable to all construction or repair work prior to the advertisement of the contract for which the governmental entity intends to prequalify bidders.
- (3) The governmental entity has adopted the assessment tool and criteria for that specific project, which must include the prequalification scoring values and minimum required score for prequalification on that project.

(c) The objective prequalification policy adopted by a governmental entity pursuant to subdivision (2) of subsection (b) of this section shall meet all of the following criteria:

- (1) Must be uniform, consistent, and transparent in its application to all bidders.
- (2) Must allow all bidders who meet the prequalification criteria to be prequalified to bid on the construction or repair work project.
- (3) Clearly state the prequalification criteria, which must comply with all of the following:
 - a. Be rationally related to construction or repair work.
 - b. Not require that the bidder has previously been awarded a construction or repair project by the governmental entity.
 - c. Permit bidders to submit history or experience with projects of similar size, scope, or complexity.
- (4) Clearly state the assessment process of the criteria to be used.
- (5) Establish a process for a denied bidder to protest to the governmental entity denial of prequalification, which process shall be completed prior to the opening of bids under G.S. 143-129(b) and which allows sufficient time for a bidder subsequently prequalified pursuant to a protest to submit a bid on the contract for which the bidder is subsequently prequalified.
- (6) Outline a process by which the basis for denial of prequalification will be communicated in writing, upon request, to a bidder who is denied prequalification.

(d) If the governmental entity opts to prequalify bidders, bids submitted by any bidder not prequalified shall be deemed nonresponsive. This subsection shall not apply to bidders initially denied prequalification that are subsequently prequalified pursuant to a protest under the governmental entity's prequalification policy.

(e) Prequalification may not be used for the selection of any qualification-based services under Article 3D of this Chapter, G.S. 143-128.1A, G.S. 143-128.1B, G.S. 143-128.1C, or the selection of the construction manager at risk under G.S. 143-128.1.

(f) For purposes of this section, the following definitions shall apply:

- (1) Governmental entity. – As defined in G.S. 143-128.1B(a)(6).
- (2) Prequalification. – A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work. (1995, c. 367, s. 8; 2014-42, s. 1.)

CITY OF BOILING SPRING LAKES, NORTH CAROLINA

POLICY FOR PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

A. PURPOSE:

1. The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is qualified to bid on a construction project, including prime contracts awarded by construction managers pursuant to the Construction Manager at Risk ("CM at Risk") process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.
2. The City Manager and/or his designee shall be responsible for prequalifying individual contractors to bid on construction projects when the City believes prequalification is preferred. Prequalification ***is limited to construction or repair projects*** (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which it has not been accepted for prequalification in accordance with this policy.
3. Prequalification is prohibited for contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services.
4. The Construction Manager at Risk shall use the process outlined in this policy for the prequalification of contractors on CM at Risk projects. The construction manager and the City shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and minimum requirement score.
5. Notwithstanding the fact that a contractor was prequalified, the City reserves the right to reject a contractor's bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the City from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S. 143-129. The prequalification of a contractor for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

B. ORGANIZATIONS AFFECTED:

- 1 All Departments/Divisions

C. DEFINITIONS:

- 1 Project Manager – Employee of the department responsible for a construction, repair, or

purchasing project requiring a contract who shall be assigned the responsibility for managing the project and representing the department in matters relating to the project.

2 Construction Manager at Risk – A person, corporation, or entity that provides construction management at risk services. May also be referred to as Construction Manager.

3 Prequalification - A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work.

4 Purchasing Manager – Person in the Finance Department responsible for the overall conduct or oversight of all procurement activities of the City.

D. PREQUALIFICATION PROCESS:

1 Each prospective bidder on contracts identified for prequalification by the City Manager and all CM at Risk projects shall submit an application on the approved prequalification application form in order to become prequalified.

2 The approved prequalification application form will require information to be provided on the ownership of the firm, experience of firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work performed by the firm, and other objective criteria rationally related to the particular contract to be awarded.

3 The City Manager shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The notice must be posted on the City's website for a minimum of two weeks for any construction project estimated to be \$30,000 or more. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the City.

E. APPLICATION:

1 The application shall, at a minimum, address the following items:

- a. **Organizational Structure** – The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the City Manager prior to the award of a contract. Failure of the firm to comply with this requirement may result in the termination of any contract awarded by the City.
- b. **Classification** – The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information.
- c. **Experience** – The firm shall furnish a history documenting experience with projects of similar size, scope, or complexity involving the type(s) of work for which prequalification is requested.
- d. **Financial** – Firms will be required to provide a minimum of one year of complete audited

financial statements from the most current period available.

- e. **Litigation/Claims** –The firm will be required to submit information regarding its litigation history, including litigation with owners and subcontractors.
- f. **Timeliness** - Firms must provide information on its success at completing projects on time, including the payment of liquidated damages.
- g. **Capacity** – Firms shall demonstrate sufficient bonding capacity, insurance and resources for the project. Firms must provide relevant information on the personnel that will be directly responsible for the work, including the location of the office that will be primarily responsible for work.
- h. **Safety** - Firms shall also demonstrate an acceptable safety history. Firms must provide copies of any complaints, safety violations or reports from the North Carolina Qualifications Board, OSHA, or any other regulating agency associated with any construction project.
- i. **Legal Authorization** –The Applicant must provide a copy of their North Carolina Contractor's License, or provide a statement indicating that they are able to acquire one before submitting a bid on a project. If a statement is required, the Applicant shall identify the states in which they are licensed for this type of work.

F. REVIEW OF APPLICATION – CITY BID PROJECTS:

- 1 **Prequalification Committee** – The Project Manager shall establish a Prequalification Committee for each project to review and score applications submitted by the firms to determine the prequalification eligibility.
- 2 **Review of Applications** – The Prequalification Committee shall use an objective assessment process and criteria for that specific project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the City. The prequalification criteria used by the Prequalification Committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.
- 3 **Notice of Decision** – The firms shall be promptly notified in writing of the Prequalification Committee's decision via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

G. REVIEW OF APPLICATION – CM AT RISK PROJECTS:

- 1 **Prequalification Committee** - The Construction Manager and the Project Manager shall agree upon the members of the Construction Manager's Prequalification Committee. The Prequalification Committee will review prequalification applications submitted by the firms and will determine prequalification eligibility for the CM at Risk project.
- 2 **Review of Applications** – The Prequalification Committee and the Project Manager shall

agree upon an objective assessment process. The Construction Manager and the Project Manager shall develop prequalification criteria, including prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the Construction Manager or the City. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

3 **Notice of Decision** – The firms shall be promptly notified of the Prequalification Committee's decision via e-mail and first class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

H. PROTEST PROCEDURE:

1 **Protest Procedure** – The protest procedure is as follows:

- a. The firm may protest the denial of prequalification. A written protest must be received by the City Manager, or designee, within two business days of notice of denial. The written protest shall clearly identify the project and the Project Manager, clearly articulate the reasons for the protest, and attach any documents or additional information in support of the firm's position. The City Manager, or designee, will contact the firm and set up a date and time to discuss the protest. If upon review, the City Manager, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the City Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.
- b. If the firm desires further review after receiving the decision of the City Manager, the firm may request an administrative review and final decision by the City Manager, or designee. A written request for administrative review must be received by the City Manager, or designee, within two business days of the firm's receipt of the decision from the City Manager, or designee. The request for administrative review shall clearly identify the project and the Project Manager, clearly articulate the reasons for the review, and attach any documents or additional information in support of the firm's position. The City Manager, or designee, will contact the firm and set up a date and time for the administrative review. If, upon review, the City Manager, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the City Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first class mail.

2 **General Rules for Protests** – Firms submitting applications shall be provided an e-mail address for communication with the City Manager during the protest process. The firm shall provide at least two e-mail addresses for use by the City Manager in communicating with the firm. The bid opening cannot occur until the protest process is completed. The bid opening must be scheduled in order to allow sufficient time for a bidder that is prequalified as a result of a protest to submit a bid on that project.