

**REQUEST FOR PROPOSAL
CITY OF DULUTH, MN**

RFP No. 10-19DS

To perform preliminary engineering for the Joshua Avenue Duluth Heights Connector

City Project No. 0646TR
SP 118-080-036
Minn Proj. No. STPX 6911(028)

Issued By: The City of Duluth
Duluth, Minnesota

Issue Date: May 28, 2010

Deliver To: Dennis Sears
Purchasing Department
City Hall – City of Duluth
411 West First Street, Room 100
Duluth, MN 55802

Response Date: **July 8, 2010**

Time: **2:00 PM**

REQUEST FOR PROPOSALS (RFP)

Joshua Avenue Duluth Heights Connector

A “Qualification Based Selection” method will be used to review proposals submitted in response to this RFP.

Responses to this RFP will be public information under the Minnesota Data Practices Act, Minnesota Statutes Chapter 13.

This RFP does not obligate the City of Duluth to award a Contract or complete the project and the City of Duluth reserves the right to cancel the solicitation if it is considered to be in its best interest.

Project Specific Information

Project Overview

The City of Duluth requests responses for the Preliminary Engineering of the Joshua Avenue Duluth Heights Connector.

In 2006 the Duluth-Superior Metropolitan Interstate Council (MIC) in cooperation with the City of Duluth conducted the Duluth Heights Traffic Circulation Study. The study provided long-term and short-term solutions to the traffic problems associated with the Duluth Heights neighborhood.

The most widely accepted long-term solution to the problem was the addition of a new primary road connecting Maple Grove Road and Arrowhead Road. This new primary road will be located approximately half way between Haines Road and Arlington Road to provide another minor arterial route to the Miller Hill business area.

It is anticipated that this new roadway will be a new bus route for the Duluth Transit Authority and will be designed with facilities to accommodate safe bicycle and pedestrian use in accordance with City and State Complete Streets Policies. It is anticipated that a new signal system will be installed at the intersection of this new road with Arrowhead Road, and that improvements to Arrowhead Road at the new intersection will be necessary and part of the Joshua Avenue project.

The addition of the Duluth Heights connector will greatly reduce cut-through traffic on the residential streets and decrease the drive times to the mall area. This project is currently on the City of Duluth’s and the MIC’s long-range plan.

Project Goal

It is the goal of this project to complete the preliminary engineering of the Joshua Avenue Duluth Heights Connector. Preliminary engineering will include environmental documentation and engineering design in anticipation of future construction.

Project Budget and Timeline

The City of Duluth has secured \$400,000 in federal Surface Transportation Program funds and \$100,000 in local funds established a maximum budget of \$500,000 for completion of the work covered in this proposal. Consultants should consider \$500,000 to be the maximum amount for the project.

Funding has not been established for construction of the Joshua Avenue Duluth Heights Connector, but the project is listed as a 2013 Illustrative Project in the State Transportation Improvement Program (STIP).

Therefore, it is anticipated that work described in this RFP will be complete and the project goal reached by January 01, 2013.

Scope of Work and Deliverables

In order to achieve the Project Goal, the following tasks are anticipated to be performed by the chosen consultant. Responders are asked to report how they will address each task, detail staff and firm qualifications related to each task, and describe task deliverables. Responders are encouraged to propose additional tasks or activities if they will substantially improve the results of the project.

Initial Site Visit and Consultations

The Consultant shall meet with City of Duluth representatives to review project scope and complexity, design criteria, related requirements, view existing conditions, and gather data from the City engineering files. Additional consultations shall, where necessary, clarify the technical requirements and objectives of the contract and may be in the form of letters and/or telephone conversations. The Consultant shall provide documentation of meetings and data provided. The Consultant shall ascertain the applicability of information provided, review data for completeness, and notify the City of any additional data required. It shall be the responsibility of the Consultant to determine, by site inspection procedures, the reliability of all the drawings and information which they choose as reference

Route Study and Analysis

A preferred route has been selected based on previous studies and is attached as Appendix A. Updates and changes to the route may be necessary due to changes in property availability, environmental conditions, etc. Responders should anticipate analysis of the preferred route and alternatives to determine a final route for use in future tasks.

Environmental Assessment and wetland mapping

It is anticipated that this project will not be classified as a Categorical Exclusion. It is anticipated that the project will require an Environmental Assessment (EA), including a Wetland Assessment. The Consultant will be responsible for preparation, publication, and distribution of the EA document in accordance with the local, state, and federal rules and regulations.

The chosen responder will be responsible to develop environmental analysis, conduct studies, perform environmental field surveys, and prepare and document analysis for the preferred alternative covering all required NEPA/MEPA subject areas, including, but not limited to:

- Section 4(f), 6(f), 106 properties
- Historic/Archeological
- Threatened and Endangered Species
- Section 404
- Erosion Control
- Floodplains
- Wetlands
- Contaminated Properties
- Right-of-Way and Relocation

Wetlands will need to be delineated and mapped to confirm impacts of the chosen route. Responders should anticipate preparation of a plan that will allow the City to mitigate wetland impacts necessary for construction.

Public meetings

Responses should describe the proposed public participation program to inform, consult, and involve community organizations, area property owners, business owners, residents, and local, regional, and state

agencies. The public participation program, and the final design, should address state and local Complete Streets policies.

Property surveys and right-of-way mapping

The consultant will need to identify the required right-of-way and prepare an acquisition plan that allows the City of Duluth to acquire the properties as funding allows. The consultant will also be responsible to prepare the right-of-way documentation that will allow the City to acquire the properties or portions thereof identified as being needed for the alignment selected. The documentation and all required exhibits should be in a recordable form acceptable to the St. Louis County Recorder's Office.

Design survey and detailed design

The City has had an aerial flight performed and mapping created for the Joshua Avenue corridor and will provide 2D planimetric features, 3D DTM, and 3D contours in AutoCAD format to the consultant once under contract. The consultant will be responsible to perform any additional surveys necessary, perform any needed geotechnical exploration, and prepare the final design plan, detailed engineers estimate, and special provisions for construction. The plan set will be designed in accordance with City, State, and Federal requirements.

Traffic signal justification report

The consultant will complete a traffic signal justification report for the new signal anticipated at the intersection of the Arrowhead Road with the new Joshua Avenue extension.

Permit applications and approvals

Consultation with State and local regulatory agencies to determine required information for permit applications and other approvals as it relates to the design and execution of the entire project will be required. The Consultant shall be responsible for permit applications and approvals that are determined to be required of the City.

Proposal Content

The following will be considered minimum contents of the proposal and must be submitted in the order listed:

1. Responder's company name, business address, the contact person's name, telephone number, fax number and email address (as available).
2. A statement of the objectives, goals and tasks to show or demonstrate the responder's view of the nature of the project.
3. A description of the proposed project approach and methodology to be utilized and deliverables to be provided by the responder, and a description of the proposed project management techniques.
4. A detailed description of the responder's background and experience with similar work. This should include examples of similar work indicating the responder's level of involvement in the project, and the key personnel involved with the project. For the similar work identified, provide information on: 1) cost management (comparison of final cost to the initial Contract price with explanation of significant increases); 2) whether the sponsor's schedule was met (with explanation of any delays), and 3) sponsor feedback regarding quality of services (for example any constructability or other plan reviews, any significant re-work required, or any known Contractor claims relating to plan errors). Emphasis should be placed on ability and history in handling projects with special constraints similar to the state's proposed project.
5. A list of the key personnel who will be assigned to the project and their area of responsibility. Provide statements for each of the key personnel detailing their training, work experience and qualifications relevant to the proposed work. No change in personnel assigned to the project will be permitted without the written approval of the City of Duluth Project Engineer.

6. A work plan identifying the major tasks to be accomplished. This work plan will form the basis for cost negotiations after responder selection. The work plan must present the responder's approach, task breakdown, and deliverable due dates.
7. Completed forms and documents required under any other section of this RFP.
8. The responder must **not** include price information either in the body of the proposal or as a separate submittal.
9. The Proposal shall be submitted on 8.5"x11" paper in no less than 12 point font. Graphic illustrations may be shown on 11"x17" paper and considered as one page each. Responses shall not exceed 12 pages in length. Appendices may be attached to the proposal and contain resumes and examples of similar work and experience. Appendices shall not exceed 24 pages in total length. All proposal materials should be bound in a single submission.

Proposal Evaluation

Representatives of the City of Duluth will evaluate all responses received by the deadline. An interview will not be part of the evaluation process. All responses will be evaluated on the basis of qualifications. A 100-point scale will be used to create the final evaluation recommendation. The factors and weighting on which proposals will be judged are:

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| 1. Technical competence and expertise as demonstrated by the responder's expressed project understanding, proposed project approach and methodology, project work plan, and project management techniques. | 15% |
| 2. Specialized expertise, capabilities, and technical competence as demonstrated by the Responder's background and experience with similar work, and ability and experience in handling projects with similar constraints. | 25% |
| 3. The responder's record of past performance, including ability to control costs, ability to meet schedules and quality of work. | 25% |
| 4. The availability of personnel and other resources to perform the work within the specified time limit. | 10% |
| 5. The qualifications and experience of key personnel. | 25% |

Proposals will be evaluated and a successful responder will be chosen on the basis of qualifications only. The successful responder will be required to submit a detailed scope of services and budget promptly after selection. The City of Duluth and the successful responder will then meet to negotiate the final scope of services and compensation. If the City of Duluth and the successful responder are unable to agree upon a scope of services and compensation within a reasonable time (as determined by the City at its sole discretion), then the City of Duluth may declare negotiations to be at an impasse, and may commence negotiations with the next highest-ranked responder.

It is anticipated that the evaluation and selection will be completed according to the following schedule:

May 28, 2010	RFP Published and Advertised
June 14, 2010	Deadline for questions from potential responders regarding this RFP by email
June 18, 2010	Responses to questions will be posted
July 08, 2010	RFP Responses received at City of Duluth
July 16, 2010	Notification of Successful Bidder
July 26, 2010	Successful Consultant to submit financial proposal
July 26-29, 2010	Contract Negotiations
August 16, 2010	Contract Award and Notice to Proceed Issued

Proposal Submittal

All proposals must be sent to:

Dennis Sears
Purchasing Department
City Hall – City of Duluth
411 West First Street, Room 100
Duluth, MN 55802

- **All responses must be received no later 2:00 p.m. local time on July 08, 2010.**

Submit original and 6 copies of the proposal. Proposals are to be submitted in a sealed mailing envelope or package, clearly marked “Proposal: Preliminary Engineering, Joshua Avenue Duluth Heights Connector – RFP No. 10-19DS” on the outside. An authorized member of the firm must sign each copy of the proposal in ink.

Proposal Questions

Responders who have any questions regarding this RFP must submit questions by e-mail only to:

Matt Decur, Project Engineer
mdecur@duluthmn.gov

All questions and answers will be posted on the City of Duluth’s Purchasing Web Page at <http://www.duluthmn.gov/purchasing/index.cfm> under the Bids and RFP’s section. All prospective responders will be responsible for checking the web page for any addendums to this RFP and any questions that have been answered. **Please note that questions will be posted verbatim as submitted.**

Questions regarding this RFP must be received by the City of Duluth no later than 2:00 p.m. local time on June 14, 2010.

The City of Duluth anticipates posting answers to such questions no later than 2:00 p.m. local time on June 18, 2010.

No other City personnel are allowed to discuss the RFP before the proposal submission deadline. Contact regarding this RFP with any personnel not listed above could result in disqualification.

General Information

Responders must adhere to all terms of this RFP. Late proposals will not be considered. All costs incurred in responding to this RFP will be borne by the responder. Fax and e-mail responses will not be considered.

The City of Duluth Not Obligated To Complete Project

This RFP does not obligate the City of Duluth to award a Contract or complete the project, and the City of Duluth reserves the right to cancel the solicitation if it is considered to be in its best interest.

Disposition of Responses

All materials submitted in response to this RFP will become property of the City of Duluth and will become public record after the evaluation process is completed and an award decision made. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statutes §13.37, the responder must:

- Clearly mark all trade secret materials in its response at the time the response is submitted,
- Include a statement with its response justifying the trade secret designation for each item, and
- Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the City of Duluth, its agents and employees, from any judgments or damages awarded against the City in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives The City's award of a Contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of The City of Duluth. The City of Duluth is required to keep all the basic documents related to its Contracts, including responses to RFPs for a minimum of seven years.

The City of Duluth will not consider the prices submitted by the responder to be proprietary or trade secret materials.

Responses to this RFP will not be open for public review until The City of Duluth decides to pursue a Contract and that Contract is executed.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes §10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

Affidavit of Noncollusion

Responders must complete the attached "Affidavit of Noncollusion" and include it with the response. The successful responder will be required to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the Contract. The successful responder will be required to submit pre-award audit information and comply with audit standards.

Organizational Conflicts of Interest

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances, which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the City of Duluth, or the successful responder's objectivity in performing the Contract work is or might be otherwise impaired, or the successful responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the City of Duluth, which must include a description of the action, which the successful

responder has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the City of Duluth may, at its discretion, cancel the Contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the contracting officer, the City of Duluth may terminate the Contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the City of Duluth's rights. Responders must complete the attached "Conflict of Interest Checklist and Disclosure Form" and submit it along with the response, but not as a part of the response.

Soliciting proposals by Disadvantaged Business Enterprises (DBE)

Race Gender Neutral Assigned

The Mn/DOT office of Civil Rights has assigned a Race/Gender Neutral Goal to this project. Responders are directed to read the DBE Special Provisions, as posted at <http://www.dot.state.mn.us/consult/index.html> under the Prof/Tech Notices section and attached as Appendix B. The DBE Special Provisions explains how to comply with the DBE requirements. In particular, see pages one and two regarding documents that a responder must submit with its proposal. The form required in the proposal can be found on page 3 of the Special Provisions. To view a listing of certified DBE's, please contact the Mn/DOT Office of Civil Rights at 651-366-3073, TTY 651-282-5799, or visit their website at www.dot.state.mn.us/eeocm.

Certification Regarding Lobbying

Federal money will be used to pay for all or part of the work under the Contract, therefore the responder must complete the attached Certification Regarding Lobbying and submit it as part of its proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

The City of Duluth cannot, at this time, determine whether or not any federal funds might be used to pay for any part of the Contract, therefore responders must certify the following, as required by the Compliance Supplement to OMB Circular A-133, Compliance Supplement (found at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>):

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

Instructions for Certification:

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant will provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible,

or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
9. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
10. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Affirmative Action Data

For all Contracts estimated to be in excess of \$100,000.00, responders are required to complete the attached "Affirmative Action Certification" page and include it with the response.

Insurance Requirements

1. **Insurance Certificates and Continuity of Coverage Required.** The successful responder must provide a certificate of insurance showing that they have each type of insurance coverage and limits required under this Contract. The certificate must be filed with the City of Duluth's Authorized Representative within 30 days of execution of this Contract. Each policy and Certificate of Insurance must contain a 30 day notice of cancellation, nonrenewal or changes in coverage or limits to all named and additional insured. The successful responder must maintain such insurance in full force and effect throughout the term of this Contract.
2. **Required Insurance.** The following insurance coverage are required:
 - a. **Workers' Compensation Insurance:** Except as provided below, the successful responder will be required to provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, will require its subcontractor(s) to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum amounts are as follows:
 - \$100,000.00 – Bodily Injury by Disease per employee
 - \$500,000.00 – Bodily Injury by Disease aggregate
 - \$100,000.00 – Bodily Injury by Accident

If Minnesota law exempts the successful responder from Workers' Compensation insurance requirements, or if such responder has no employees in the State of Minnesota, they will be required to provide a written statement, signed by an authorized representative, indicating the qualifying exemption.

- b. **Commercial General Liability Insurance:** The successful responder will be required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by it or by a subcontractor or by anyone directly or indirectly employed by the successful responder pursuant to the Contract. Insurance minimum amounts are as follows:

\$2,000,000.00 – per occurrence
\$2,000,000.00 – annual aggregate
\$2,000,000.00 – annual aggregate – Products/Completed Operations

The following coverage must be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
City of Duluth named as an Additional Insured

- c. **Commercial Automobile Liability Insurance:** The successful responder will be required to maintain insurance protecting the responder from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under the Contract, and in case any work is subcontracted the responder must require the subcontractor to provide Commercial Automobile Liability. Insurance minimum amounts are as follows:

\$2,000,000.00 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverage should be included:

Owned, Hired and Non-owned Automobile
City of Duluth named as an Additional Insured

- d. **Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance.** The successful responder will be required to carry the following minimum amounts:

\$2,000,000.00 – per claim or event
\$2,000,000.00 – annual aggregate

Any deductible will be the sole responsibility of the successful responder and may not exceed \$50,000.00 without the written approval of the City of Duluth.

The retroactive or prior acts date of such coverage will not be after the effective date of the Contract.

This policy must provide coverage for all claims the successful responder may become legally obligated to pay resulting from any actual or alleged negligent act, error or omission related to the successful responder's professional services required under the Contract, and include an extended reporting period provision of a minimum of five years if commercially available, otherwise a minimum of three years, following completion of the work.

- e. **Additional Insurance Conditions:**

- i. The successful responder's policy(ies) must be primary insurance to any other valid and collectible insurance available to the City of Duluth with respect to any claim arising out of the Contract;

- ii. The successful responder's policy(ies) will provide the City of Duluth with 30 days advance notice of cancellation, nonrenewal or reduction in limits of coverage or other material change;
 - iii. The successful responder will be responsible for payment of Contract related insurance premiums and deductibles;
 - iv. The successful responder will be required to include legal defense fees in addition to its liability policy limits, with the exception of section d above; and
 - v. The successful responder must obtain insurance policies from an insurance company having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better and authorized to do business in the State of Minnesota.
 - vi. An Umbrella or Excess Liability insurance policy may be used to supplement Contractor's policy limits to satisfy the full policy limits required by the Contract.
3. **Right to Terminate.** The City of Duluth will reserve the right to immediately terminate the Contract if the successful responder is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the successful responder. All insurance policies must be open to inspection by the City of Duluth and copies of policies must be submitted to the City of Duluth's Contract Administrator upon written request.

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AFFIDAVIT OF NONCOLLUSION

I swear (or affirm) under the penalty of perjury:

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation);
2. That the attached proposal submitted in response to the _____ Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this _____ day of _____

Notary Public

My commission expires: _____

CONFLICT OF INTEREST CHECKLIST AND DISCLOSURE FORM

Purpose of this Checklist. This checklist is provided to assist proposers in screening for potential organizational conflicts of interest. The checklist is for the internal use of proposers and does not need to be submitted, however, the Disclosure of Potential Conflict of Interest form should be submitted in a separate envelope along with your proposal.

Definition of “Proposer”. As used herein, the word “Proposer” includes both the prime contractor and all proposed subcontractors.

Checklist is Not Exclusive. Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a proposer determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

Use of the Disclosure Form. A proposer must complete the attached disclosure form and submit it with their Proposal. If a proposer determines a potential conflict of interest exists, it must disclose the potential conflict to the City of Duluth; however, such a disclosure will not necessarily disqualify a proposer from being awarded a Contract. To avoid any unfair “taint” of the selection process, the disclosure form should be provided separate from the bound proposal, and it will not be provided to selection committee members. City of Duluth personnel will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the proposer may be awarded the contract notwithstanding the potential conflict. City of Duluth personnel may consult with the City of Duluth’s Project Manager and Administration personnel. By statute, resolution of conflict of interest issues is ultimately at the sole discretion of the City of Duluth.

Material Representation. The proposer is required to submit the attached disclosure form either declaring, to the best of its knowledge and belief, either that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to ameliorate such conflict. The proposer must also update conflict information if such information changes after the submission of the proposal. Information provided on the form will constitute a material representation as to the award of this Contract. The City of Duluth reserves the right to cancel or amend the resulting contract if the successful proposer failed to disclose a potential conflict, which it knew or should have known about, or if the proposer provided information on the disclosure form that is materially false or misleading.

Approach to Reviewing Potential Conflicts. The City of Duluth recognizes that proposer’s must maintain business relations with other public and private sector entities in order to continue as viable businesses. The City of Duluth will take this reality into account as it evaluates the appropriateness of proposed measures to mitigate potential conflicts. It is not The City of Duluth’s intent to disqualify proposers based merely on the existence of a business relationship with another entity, but rather only when such relationship causes a conflict that potentially impairs the proposer’s ability to provide objective advice to the City of Duluth. The City of Duluth would seek to disqualify proposers only in those cases where a potential conflict cannot be adequately mitigated. Nevertheless, the City of Duluth must follow statutory guidance on Organizational Conflicts of Interest.

Statutory Guidance. Minnesota Statutes §16C.02, subd. 10 (a) places limits on state agencies ability to contract with entities having an “Organizational Conflict of Interest”. For purposes of this checklist and disclosure requirement, the term “Vendor” includes “Proposer” as defined above. Pursuant to such statute, “Organizational Conflict of Interest” means that because of existing or planned activities or because of relationships with other persons: (1) the vendor is unable or potentially unable to render impartial assistance or advice to the state; (2) the vendor’s objectivity in performing the contract work is or might otherwise be impaired; or (3) the vendor has an unfair advantage.

Additional Guidance for Professionals Licensed by the Minnesota Board of Engineering. The Minnesota Board of Engineering has established conflict of interest rules applicable to those professionals licensed by the Board (see Minnesota Rules part 1805.0300) Subpart 1 of the rule provides “A licensee shall avoid accepting a commission where duty to the client or the public would conflict with the personal interest of the licensee or the interest of another client. Prior to accepting such employment the licensee shall disclose to a prospective client such facts as may give rise to a conflict of interest”.

An organizational conflict of interest may exist in any of the following cases:

- ❑ The proposer, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs, appraisals, or other deliverables required by this Contract.
- ❑ The proposer is providing services to another governmental or private entity and the proposer knows or has reason to believe, that entity’s interests are, or may be, adverse to the state’s interests with respect to the specific project covered by this contract. **Comment:** the mere existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriate to propose on a City of Duluth project if a local government has also retained the proposer for the purpose of persuading the City of Duluth to stop or alter the project plans.
- ❑ The Contract is for right-of-way acquisition services or related services (e.g. geotechnical exploration) and the proposer has an existing business relationship with a governmental or private entity that owns property to be acquired pursuant to the Contract.
- ❑ The proposer is providing real estate or design services to a private entity, including but not limited to developers, whom the proposer knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this Contract, when the value or potential uses of such property may be affected by the proposer’s performance of work pursuant to this Contract. “Property affected by the project” includes property that is in, adjacent to, or in reasonable proximity to current or potential right-of-way for the project. The value or potential uses of the private entity’s property may be affected by the proposer’s work pursuant to the Contract when such work involves providing recommendations for right-of-way acquisition, access control, and the design or location of frontage roads and interchanges. **Comment:** this provision does not presume proposers know or have a duty to inquire as to all of the business objectives of their clients. Rather, it seeks the disclosure of information regarding cases where the proposer has reason to believe that its performance of work under this contract may materially affect the value or viability of a project it is performing for the other entity.
- ❑ The proposer has a business arrangement with a current City of Duluth employee or immediate family member of such employee, including promised future employment of such person, or a subcontracting arrangement with such person, when such arrangement is contingent on the proposer being awarded this Contract. This item does not apply to pre-existing employment of current or former City of Duluth employees, or their immediate family members. **Comment:** this provision is not intended to supercede any City of Duluth policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a proposer may have unfair access to “inside” information.

- The proposer has, in previous work for the state, been given access to “data” relevant to this procurement or this project that is classified as “private” or “nonpublic” under the Minnesota Government Data Practices Act, and such data potentially provides the proposer with an unfair advantage in preparing a proposal for this project. **Comment:** this provision will not, for example, necessarily disqualify a proposer who performed some preliminary work from obtaining a final design Contract, especially when the results of such previous work are public data available to all other proposers. Rather, it attempts to avoid an “unfair advantage” when such information cannot be provided to other potential proposers. Definitions of “government data”, “public data”, “non-public data” and “private data” can be found in Minnesota Statutes Chapter 13.
- The proposer has, in previous work for the state, helped create the “ground rules” for this solicitation by performing work such as: writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The proposer, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the state.

DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Having had the opportunity to review the Organizational Conflict of Interest Checklist, the proposer hereby indicates that it has, to the best of its knowledge and belief:

_____ Determined that no potential organizational conflict of interest exists.

_____ Determined a potential organizational conflict of interest as follows:

Describe nature of potential conflict:

Describe measures proposed to mitigate the potential conflict:

Signature

Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with City of Duluth personnel.

Name

Phone

Immigration Status Certification

By order of the Governor (Governor's Executive Order 08-01), vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

E-Verify program information can be found at <http://www.dhs.gov/ximgtn/programs>.

If any response to a solicitation is or could be in excess of \$50,000.00, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the Contract. All subcontractor certifications must be kept on file with the Contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this Contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and
2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.

Name of Company: _____

Date:

Authorized Signature: _____

Telephone Number:

Printed Name: _____

Title:

If the Contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the Contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the Contract, and/or suspending or debaring the Contract vendor from state purchasing.

For assistance with the *E-Verify* Program

Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833).

For assistance with this form, contact:

Mail: 112 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155

E-Mail: MMDHelp.Line@state.mn.us

Telephone: 651-296-2600

Persons with a hearing or speech disability may contact us by dialing 711 or 1-800-627-3529

CERTIFICATION REGARDING LOBBYING
For Contracts and Grants over \$100,000

The undersigned certifies, to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization Name

Name and Title of Official Signing for Organization

By: _____
Signature of Official

Date

AFFIRMATIVE ACTION CERTIFICATION

If your response to this solicitation is or could be in excess of \$100,000.00, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date and time of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.

BOX A – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to BOX B.

Your response will be rejected unless your business:

Has a current Certification of Compliance issued by the Minnesota Department of Human Rights (MDHR)

-or-

Has submitted an affirmative action plan to the MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

We have a current Certificate of Compliance issued by the MDHR. **Proceed to Box C. Include a copy of you Certification with your response**

We do not have a current Certificate of Compliance; However, we submitted an Affirmative Action Plan to the MDHR for approval, which the Department received on _____ (date). If the date is the same as the response due date, indicate the time your plan was received: _____ (time). **Proceed to Box C.**

We do not have a Certification of Compliance, nor has the MDHR received an Affirmative Action Plan from our company. We acknowledge that our response will be rejected. Proceed to Box C. Contact the MDHR for assistance. (See below for contact information)

Please note: Certificates of Compliance must be issued by the MDHR. Affirmative Action Plans must be approved by the Federal government, a county or a municipality must still be received, reviewed and approved by the MDHR before a Certification can be issued.

BOX B – For those companies not described in BOX A

Check below

We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. **Proceed to BOX C.**

BOX C – For all companies

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.)

Name of Company: _____ Date _____

Authorized Signature: _____ Telephone number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact:

Minnesota Department of Human Rights, Compliance Services Section

Mail: 190 East 5th St., Suite 700 St. Paul, MN 55101

TC Metro: (651) 296-5663

Toll Free: 800-657-3704

Web: www.humanrights.state.mn.us

Fax: (651) 296-9042

TTY: (651) 296-1283

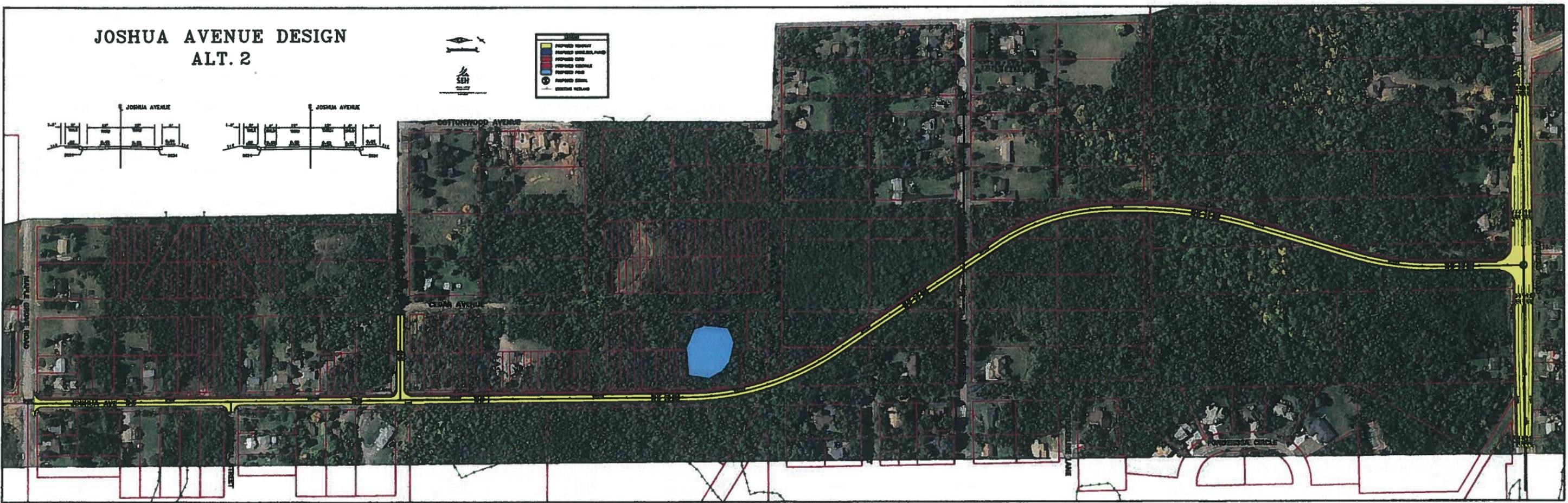
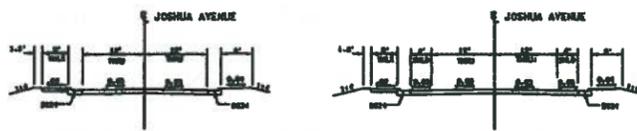
Email: employerinfo@therightsplace.net

APPENDIX A

JOSHUA AVENUE DESIGN ALT. 2



	PROPOSED ROADWAY
	PROPOSED SIDEWALK
	PROPOSED CURB
	PROPOSED DRIVE
	PROPOSED SIGN
	EXISTING VELOC



APPENDIX B

EXHIBIT _____

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
SPECIAL PROVISIONS - CONSULTANT CONTRACTS**

RACE/GENDER NEUTRAL GOAL

POLICY STATEMENT

It is the policy of the Minnesota Department of Transportation (Mn/DOT) that DBEs, as defined in 49 C.F.R. Part 26, and other small businesses shall have the maximum feasible opportunity to participate in contracts financed in whole or in parts with federal funds. Consistent with this policy and Title VI of 1964 Civil Rights Act, Mn/DOT will not allow any person or business to be excluded from participation in, denied the benefits of, or otherwise be discriminated against in connection with the award and performance of any U.S. Department of Transportation (DOT) assisted contract because of sex, race, color, or national origin. Mn/DOT has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the DOT, 49 C.F.R. Part 26 to implement this policy.

CONTRACT ASSURANCE

The Contractor, Sub-recipient, Sub-consultant or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out all the applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as Mn/DOT deems appropriate.

Furthermore, Title VI of the Civil Rights Act of 1964 assures that no person or group of persons may, on the grounds of race, color, national origin, sex, age, handicap or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by Mn/DOT. For further information regarding Title VI, please contact the Office of Civil Rights, 395 John Ireland Blvd., MS 170, St. Paul, MN 55155-1899. Our telephone number is: (651) 297-1376

The above information is applicable to every Contractor including every tier of sub-consultants, subcontractors, supplier or service providers on this project. It is the responsibility of the prime Contractor, and all sub-consultants, subcontractors, suppliers and service providers to ensure equal opportunity for all firms to participate on this project.

RACE/GENDER NEUTRAL GOAL

There is **no specific numerical DBE goal assigned** to this project. While **no** numeric DBE goal is assigned to this contract, the Contractor, sub-recipient, sub-consultant or subcontractor **should** make every reasonable effort to solicit DBE firms to participate as sub-consultants, subcontractors, service providers and suppliers on this project.

The Contractor may find DBE firms certified by the Minnesota Unified Certification Program in Mn/DOT's Disadvantaged Business Enterprise (DBE) Directory. The DBE Directory can be found at the following website:

<http://www.dot.state.mn.us/eeocm/ucpdirectory.html>

ADDITIONAL SUB-CONSULTANTS, SUBCONTRACTORS, SUPPLIERS AND SERVICE PROVIDERS

Whenever an additional sub-consultant, subcontractor, supplier or service provider is selected, and it has not been previously reported to the Mn/DOT Office of Civil Rights, the Contractor or its designated EEO Officer shall promptly provide Mn/DOT EEO office with the following information regarding the subcontract:

- a) The name of the sub-consultant, subcontractor; supplier or service provider;
- b) The total dollar amount of the subcontract;
- c) The specific work items covered by the subcontract;
- d) Estimated quantities of each work item; and
- e) Individual unit prices (if applicable).

SUBMITTAL OF DOCUMENTATION

Following contract award, the apparent successful consultant shall submit a completed list of all sub-consultants, subcontractors, service providers and suppliers that submitted bids on the attached Bidders List.

This Race/Gender Neutral Goal Language is an addendum to the Mn/DOT DBE Special Provisions for Consultant Contracts.



MINNESOTA DEPARTMENT OF TRANSPORTATION
OFFICE OF CIVIL RIGHTS

BIDDER'S LIST
(Consultant Contracts)

State Project #: _____

Prime Contractor _____ Contract Amount _____ Goal _____

Total DBE Commitment _____ (_____ %)

List all comparative quotes of participants performing on the project and participants that bid, including DBEs and non-DBEs. Include Sub-consultants (or Subcontractors, Suppliers & Service providers).

	Name, Contact Name and Phone number of Contractor *	Check (✓) Firms That Will Be Used	Description of Work	Subcontract Dollar Amount
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

* Please indicate with an asterisk (*) or check mark (✓) which sub-consultants (or subcontractors, suppliers and service providers) you will be using on the project.

(Make additional copies of this form as necessary)