



Shelby County Tennessee

Mark H. Luttrell, Jr., Mayor

Request for Proposal Shelby County Government Purchasing Department

160 N. Main, Suite 550
Memphis, TN 38103

Issued: December 5, 2011

Due: January 4, 2012 @ 4:00 P.M. (Central Standard Time)

RFP #12-011-21

STORM WATER CODE AND ORDINANCE REVIEW

Shelby County Government is soliciting written proposals, on a competitive basis from qualified Architectural/Engineering firms to provide professional services to review and evaluate storm water related regulations and preparing a final report. Information regarding the RFP is located on the County's website at www.shelbycountyttn.gov. Go to "Purchasing" "Bids" under the Departments tab to locate the above-described RFP. If you do not have access to the Internet and require us to send you a hard copy of the RFP, please call us at (901) 222-2251 to request a copy.

The proposal, as submitted, should include all qualifications and information related to the services requested in this RFP. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government.

Your proposal must be received in the office of the Administrator of Purchasing **no later than 4:00 P.M. on January 4, 2012.** Proposals should be addressed to:

Nelson Fowler, Manager A
Shelby County Government
160 N. Main, Rm. 550
Memphis, TN 38103

The package containing an original (clearly identified as original) and six (6) copies of your proposal must be sealed and marked with the Proposer's name and "**CONFIDENTIAL, "STORM WATER CODE AND ORDINANCE REVIEW, RFP # 12-011-21"**" noted on the outside.

Sincerely,

Nelson Fowler, Manager A
Purchasing Department Shelby County Government

cc: Darren Sanders, Shelby County Engineer
Chris Masin, Shelby County Engineers Department

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Note: Please make sure you pay close attention to Sections: I-V, IX & X. These sections will clearly outline what information is required to properly respond and prepare your RFP response.

I. INTRODUCTION

Shelby County Government's Engineering Department (the "County") is seeking proposals from interested and qualified consultants to review and evaluate local regulations related to storm water management practices and standards including the preparation of a report detailing specific language additions, deletions and/or changes based on completion of the Environmental Protection Agency's Water Quality Scorecard and other development regulations, plans and policies. Documents included in the review process will include, but is not limited to, Zoning, Subdivision and Land-Use regulations, Storm water, Floodplain Management and Tree Protection Ordinances, the Memphis/Shelby County Storm Water Manual, Construction Standards and Development Codes. (the "Services"). This Request for Qualifications ("RFQ") is being released to invite interested and qualified consultants to prepare and submit its qualifications to perform the Services in accordance with instructions provided where qualified candidates will be selected and invited to submit proposals to perform the Services outlined in this RFQ. In this RFQ, the terms Proposer and Consultant are used interchangeably unless the context indicates otherwise.

II. MINIMUM PROPOSER REQUIREMENTS

Proposer must:

1. **Apply** and **qualify** for an Equal Opportunity Compliance (EOC) certification number prior to submitting your response.
2. Adhere to the requirements of the "Living Wage Ordinance #328," Section V, Item I.
3. Adhere to all Title VI requirements and provide proof/documentation if necessary.
4. A written statement of compliance to Title VI and the Living Wage Ordinance must be provided with your response. Please see page 6, Item I for the Living Wage Ordinance.
5. Have experience in the preparation of planning language, storm water management practices, and development of Low-Impact Design construction plans.
6. Have all appropriate licenses and certifications required to perform the Services.
7. Meet all other requirements for the performance of the Services in accordance with the provisions of this RFP.

Please Note: *As a part of doing business with Shelby County, each individual, company, or organization is required to obtain an "Equal Opportunity Compliance" certification number prior to submitting your response.*

You can access the online application to receive the numbers indicated above at www.shelbycountyttn.gov and click the link "Department" at the top, then P for Purchasing Department, then click on the link "Conducting business with Shelby County." Please download the application instructions and read thoroughly prior to accessing the application.

If you have any questions regarding the application, you may contact Purchasing at (901) 222-2250 or the EOC Administration at (901) 222-1100.

III. CORRESPONDENCE

All correspondence, proposals and questions concerning the RFP are to be submitted to:

**Nelson Fowler, Manager A
Shelby County Government
160 N. Main St. Suite 550
Memphis, TN 38103
(901) 222-2251**

Respondents requesting additional information or clarification are to contact Nelson Fowler in writing at nelson.fowler@shelbycountyttn.gov or at the address listed above. Questions should reference the section of the RFP to which the question pertains and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be Wednesday, December 28, 2011 by 12:00 p.m. (CST).*** These guidelines for communication; have been established to ensure a fair and equitable process for all respondents.

Note: All written questions submitted by the deadline indicated above will be answered and posted on the County's website at www.shelbycountyttn.gov within fort eight (48) hours of the above cut-off date.

Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County or its benefit administrators regarding this RFP may disqualify your company from further consideration.

IV. PROPOSAL SUBMISSION DEADLINE

All proposals must be received at the address listed above no later than 4:00 P.M., Wednesday, January 4, 2012. Facsimile or electronically transmitted proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered.

V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective Proposers shall be notified.

Request for Qualifications Released	Monday, December 5, 2011
Deadline for Questions	Wednesday, December 28, 2011 by 12:00 P.M.
Proposal Due Date	Wednesday, January 4, 2012 by 4:00 P.M.
Notification of Award	January 2012

The County may reproduce any of the Proposer's proposal and supporting documents for internal use or for any other purpose required by law.

VI. PROPOSAL CONDITIONS

A. Contingencies.

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Proposers, in writing, if the County rejects all proposals.

B. Modifications.

The County reserves the right to issue addenda or amendments to this RFP.

C. Proposal Submission.

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the Proposer's responsibility to ensure that its proposals arrive on or before the specified time.

D. Incurred Costs.

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the Proposer's responsibility.

E. Final Authority.

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

F. Proposal Validity.

Proposals submitted hereunder will be firm for ninety (90) calendar days from the due date unless otherwise qualified.

G. Disclosure of Proposal Contents

Provider understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data, or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposals and other materials submitted become the property of Shelby County Government. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and before the time of a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

H. LOSB

The county encourages the utilization of locally owned small businesses as a source of subcontract work. The county notifies all Proposers that all firms and/or individuals shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Title VI of the Civil Rights Act of 1964, as amended.

LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:

- (i) The Administrator of Purchasing in conjunction with the Administrator of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.
- (ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.
- (iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.
- (iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.
- (v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.
- (vi) Failure by a supplier or contractor to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.
- (vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract, or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$500,000.00;
- b. A preference of up to three and five-tenths percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

(x) For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution.

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

I. LIVING WAGE ORDINANCE AND PREVAILING WAGE ORDINANCE

Living Wage - In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

Prevailing Wage – Any firm, individual, partnership or corporation awarded a contract by the COUNTY for the construction of, improvement, enlargement, alteration or replacement of a public work or project in excess of \$500,000 and any subcontractors of such public work or project in excess of \$100,000 (“Recipient”) shall be required to pay local prevailing wages and benefits for laborers, mechanics, or other listed classifications as defined by the Tennessee Department of Labor. The prevailing wage rate shall be the most current State of Tennessee prevailing wage established by the Tennessee Department of Labor For Region 1 (Shelby County). The benefit rates shall be the most current rates described in the published schedule by the Memphis and West Tennessee Building and Construction Trades Council, except as otherwise provided in the Shelby County Code of Ordinances. The applicable rate shall be determined at the time that the project is awarded. In instances where Prevailing wage applies, Prevailing Wage will override the Living Wage requirement.

J. Non-discrimination and Title VI

The contractor hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

Any recipient entity shall be subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and regulations promulgated pursuant thereto. It shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans sub-recipients of federal funds through the entity. The contractor shall produce the plan upon request of Shelby County Government. Failure to provide same shall constitute a material breach of contract.

VII. GENERAL REQUIREMENTS

A. Background

In 2003, pursuant to Federal Law and regulation, Shelby County Government obtained a Municipal Separate Storm Sewer System (MS4) permit from the Tennessee Department of Environment and Conservation for storm water discharges into waters of the state from non-point sources in unincorporated Shelby County. On June 9, 2011, Shelby County received a Notice of Coverage (NOC) under the revised MS4 permit and is required per section 4.2.5.3 to perform a review of local codes and ordinances using the EPA Water Quality Scorecard within twelve (12) months of the NOC date and submit the completed copy of the scorecard in the subsequent annual report.

The review process should also take into consideration other guidance documents, such as, but not limited to the Sustainable Shelby County Implementation plan, the Center for Watershed Protection's Handbook for changing Development Rules in Your Community and contemporary literature and research on new urbanism, low-impact design, green development and storm water control best management practices.

B. Scope of Contract

The County wishes to engage in a contractual relationship with the best-qualified Consultant selected through a competitive process that will work well with the Engineering Department in the performance of the Services in a manner that is cost-effective and practical. The Consultant must be prepared to begin immediately upon receipt of a Notice to Proceed. The term of the Contract for the Services shall be a period of one hundred twenty (120) days.

1. Purpose

To select the best qualified Consultant and award a County-approved contract for professional services to perform the Services and to satisfactorily complete all Services associated with the proposed contract.

2. Services Required

The scope of work required for this contract will include all services required to provide the highest quality deliverables listed below, including tasks not specifically mentioned or required as a deliverable.

- a. Attendance at preliminary meetings with persons involved in the administration of and knowledge of the development and planning processes for unincorporated Shelby County.
- b. Assembly of a comprehensive list of all documents, codes, ordinances, and regulations necessary to perform the tasks required in the EPA Scorecard evaluation process.
- c. Review of local planning documents, relative comparative information from other jurisdictions and other storm water management literature.
- d. Completion of a report including:
 - 1. The completed EPA Water Quality Scorecard
 - 2. A listing of storm water control principals to be used, i.e., “Design residential streets with the minimum width required for travel, parking, safety, and service.”
 - 3. A set of necessary and suggested changes to each of the documents, codes, ordinances and regulations controlling the development and storm water management for unincorporated Shelby County, including specific regulatory language, i.e., a table giving specific pavement widths and standard cross-sectional drawings to be used under the various criteria.
 - 4. A description of modifications required under sections 4.2.4a, 4.2.4, 4.2.5.6 and 4.2.5 of the permit for construction runoff regulations, storm water control program, BMP tracking and permanent storm water management changes to be implemented, 18 months, 24 months, 180 days and 48 months of the NOC respectively.
 - 5. A description of procedures or projects to be performed or modified to bring individual storm water program elements, such as, the public education and outreach plan, illicit discharge detection and elimination program, enforcement response plan, construction site runoff control program, development plans review process, good house-keeping operations, etc. into compliance with the permit.
- e. Final meetings with persons involved in the administration of the development and planning processes for unincorporated Shelby County explaining required actions.

Proposal should include the following:

- a. Firm name, address and telephone numbers.
- b. List and describe all projects the firm/consultants/joint venture and/or personnel have performed or been in charge of that relate to this project.
- c. List and describe project experience working with local, state and federal agencies.

- d. List of key personnel and their experience
- e. Name of any outside consultants/joint venture.
- f. Level of Minority or LOSB participation (20% minimum required).
- g. A description of the proposed methodology and a timeline that would be used to complete this project.
- h. Please include references.
- i. Inclusion of a fee is not required. Your proposal if selected will form the basis of negotiation for a design services agreement with Shelby County Government.

3. Reservation of Rights

The County reserves the right, for any reason to accept or reject any one or more submissions, to negotiate the term and specifications for the Services to be provided, to modify any part of the RFQ, or to issue a new RFQ.

4. LOSB Participation Level

Shelby County Government is committed to a policy of non-discrimination pursuant to the Equal Protection provisions of the United States Constitution. It is further the policy of Shelby County that its purchasing and contracting practices encourage the use of Locally-Owned Small Businesses (LOSBS) in all solicitations. In furtherance of these policy objectives, Shelby County seeks to afford all citizens equal opportunities to do business on county contracts and to ensure that all bidders, proposers, or Contractors doing business with Shelby County provide to LOSBS, maximum practicable opportunities, commensurate with availability, price and capabilities required, to participate on contracts which are paid for, in whole or in part, with monetary appropriations from Shelby County.

Shelby County seeks to prevent discrimination against any person or business in pursuit of these opportunities on the basis of race or gender. Shelby County will conduct its contracting and purchasing programs so as to discourage any discrimination and will actively seek to resolve all claims of discrimination brought against Shelby County or any Contractors involved in such contracting and purchasing programs.

Shelby County has determined that **20%** of the contract sum will be contracted with LOSB vendors. For assistance and information regarding LOSB participation, Bidders shall contact.

Ms. Doris Vester
Office of Equal Opportunity Compliance
Board of Commissioners of Shelby County
160 North Main Street, Suite 969
Memphis, Tennessee 38103
Phone: 901-222-1100
Fax: 901-222-1101
E-mail: Doris.Vester@shelbycountyttn.gov

VIII. CONTRACT REQUIREMENTS

The successful Proposer will be expected to enter into a contract incorporating the following terms and conditions, and such additional terms and conditions standard to services of this type.

A. General Requirements

1. Control. All services by the Provider will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.

2. Provider's Personnel. The Provider certifies that it presently has adequate qualified personnel to perform all services required under this Contract. The provider will supervise all work under this Contract. The Provider further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Consultant who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.

3. Independent Status. (a) Nothing in this Contract shall be deemed to represent that the provider, or any of the provider's employees or agents, are the agents, representatives, or employees of the County. The Provider will be an independent consultant over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give County the right to direct the Provider as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Provider is solely for purposes of compliance with local, state and federal regulations and means that the Consultant will follow the desires of the County only as to the intended results of the scope of this Contract.

(b) It is further expressly agreed and understood by Provider that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the provider has been retained by the County to perform the services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Provider for services performed shall be on the Consultant's letterhead.

4. Termination or Abandonment

(a) It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:

(i) The Provider or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price

fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.

(ii) The Provider has subcontracted, assigned, delegated, or transferred its rights, obligations, or interests under this Contract without the County's consent or approval.

(iii) The Provider has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Provider's assets.

(b) The County may terminate the Contract upon five (5) days written notice by the County or its authorized agent to the Provider for Provider's failure to provide the services specified under this Contract.

(c) This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of such termination, the Provider shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Provider shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

(d) All work accomplished by Provider prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of the County prior to payment for services rendered.

(e) Notwithstanding the above, the Provider shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Provider and the County may withhold any payments to Consultant for the purpose of setoff until such time as the exact amount of damages due the County from the Provider is determined.

5. Subcontracting, Assignment or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the Provider from performance of its duties under this contract. The County shall not be responsible for the fulfillment of the Provider's obligations to its transferors or sub-providers. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Provider covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of its services. The Provider warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-provider to the Provider in connection with any work contemplated or performed relative to this Contract.

7. Covenant Against Contingent Fees. The Provider warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Provider, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person,

other than a bona fide employee working solely for the Provider any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. Employment of County Workers. (a) The Consultant will not engage on a full, part-time, or other basis during the period of the Contract, any professional or technical personnel who are in the current employment of the County.

(b) Notwithstanding the foregoing, no prior County official or employee may be employed by or receive compensation, wages or benefits from Consultant for a period of one year from employment separation from County if during the period of employment with County the employee or official had any direct or indirect involvement with Consultant's services or operations provided to County

9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Consultant and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.

10. General Compliance With Laws. (a) If required, the Provider shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

(b) The Provider is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, the Americans with Disabilities Act (ADA), and all state and local laws, rules and regulations pertaining to electrical requirements of residential construction and renovation.

(c) This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Provider agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

11. Nondiscrimination. The Provider hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Provider on the grounds

of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Provider shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.

13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

15. No Waiver Of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the consultant shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.

18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization,

submission of travel claims, documentation requirements, and reimbursement rates. The County will make no travel advances.

19. Incorporation Of Other Documents. (a) Provider shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for the Shelby County Purchasing Department and incorporated herein by reference.

(b) It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Provider shall take affirmative action to utilized Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.

21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

22. Waiver Of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to County by the Provider, Provider understands and acknowledges that County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to County by Consultant due to services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

23. Organization Status and Authority. (a) Provider represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

(b) The execution, delivery and performance of this Contract by the Provider has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Provider, any provision of any indenture, agreement or other instrument to which the Provider is a party, or by which the Provider's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

24. Warranty. Provider warrants to County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.

25. Rights in Data. The County shall become the owner, and the Provider shall be required to grant to the County, or its successors, a perpetual, non-exclusive, non-transferable, royalty-free right, in the County's name, to use any deliverables provided by the Provider under this Contract, regardless of whether they are proprietary to the Provider or to any third parties.

26. Provider Responsibilities.

A. Indemnification and Insurance Requirements

1. Responsibilities For Claims And Liabilities. (a) Provider shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the duties hereunder, whether performed by the Provider its sub-providers, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

(b) Provider expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Consultant shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

(c) The County has no obligation to provide legal counsel or defense to the Provider or its sub-providers in the event that a suit, claim or action of any character is brought by any person not party to this Contract against Provider as a result of or relating to obligations under this Contract.

(d) Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Provider as a result of or relating to obligations under this Contract.

(e) Provider shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 550, Memphis, TN 38103, of any claim or suit made or filed against the Provider or its sub-providers regarding any matter resulting from or relating to Consultant's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof.

2. Insurance Requirements. Provider will provide evidence of the following insurance coverage:

PROFESSIONAL SERVICES/CONSULTANT PROJECTS LESS THAN \$1,000,000

Minimum Limits of Insurance

The Consultant/provider shall maintain coverage with limits of no less than:

- 1) *Commercial General Liability Insurance* \$1,000,000 limit per occurrence bodily injury and property damage/\$1,000,000 personal and advertising injury/\$2,000,000 General Aggregate/\$2,000,000 Products-Completed Operations Aggregate. The consultant/provider should indicate in its bid whether the coverage is provided on a claims-made or preferably on an occurrence basis. Shelby County Government. Its elected officials, appointees, employees, volunteers, and members of boards, agencies, and commissions shall be named as additional insured. The insurance shall include coverage for the following:
 - a) Premises/Operations
 - b) Products/Completed Operations
 - c) Contractual
 - d) Independent Contractors
 - e) Broad Form Property Coverage
 - f) Personal Injury and Advertising Liability
 - g) Builders Risk
- 2) *Business Automobile Liability Insurance* - \$1,000,000 each accident for property damage and personal injury. Coverage is to be provided on all:
 - a) Owned/Leased Autos
 - b) Non-owned Autos
 - c) Hired Autos
- 3) *Workers Compensation and Employers' Liability Insurance* - Workers Compensation statutory limits as required by Tennessee. This policy should include Employers' Liability Coverage for \$1,000,000 per accident.
- 4) Professional Liability/Errors and Omission Insurance- \$1,000,000.00 per claim/\$3,000,000.00 annual aggregate. Indicate if coverage is on occurrence basis or claims-made.

Shelby County shall be named as additional insured. All policies will provide for 30 days written notice to Shelby County of cancellation or material change in coverage provided.

B. Right to Monitor and Audit

Access To Records. During all phases of the work and services to be provided hereunder the Provider agrees to permit duly authorized agents and employees of the County, to enter Provider's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Provider will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the

funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

IX. PROPOSAL SUBMISSION

A. General

1. All interested and qualified Proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, including all attachments, exhibits, schedules, and addenda (as applicable) and all concerns regarding this RFP have been satisfied.
2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.
3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.
4. **Hard copy proposals must be received by no later than 4:00 pm (CST) on Wednesday, January 4, 2012, at Shelby County Government Purchasing Department, 160 N. Main St., Suite 550, Memphis, TN 38103.**
5. Proposer agrees to provide County with any additional information it deems necessary to accurately determine ability to perform the services proposed. Furthermore, submission of this proposal constitutes permission by this organization for the County to verify all information contained in the proposal. Failure to comply with any request for additional information may disqualify this organization from further consideration. Such additional information may include evidence of financial ability to perform.

B. Proposal Presentation

1. One (1) original (clearly identified as original) and six (6) copies of the proposal are required.
2. The package containing the original must be sealed and marked with the Proposer's name and **"STORM WATER CODE AND ORDINANCE REVIEW, RFP #12-011-21", with due date and time indicated.**
3. Proposals must be in ink. Erasures and "white-out" are not permitted. Mistakes may be crossed out, corrections typed adjacent and initialed in ink by the person signing the

proposal. Please identify all attachments, literature and samples, etc., with your firm name and our bid number.

4. Proposals must be verified before submission as they cannot be withdrawn or corrected after being opened. The County will not be responsible for errors or omissions on the part of bidders in making up their proposals. A responsible officer or employee must sign proposals. Tennessee sales tax shall not be included in the Consultant's proposal.

C. Proposal Format

Response to this RFP must be in the form of a proposal package that must be submitted in the following format. **Please download the attachment to this document.** The Proposal Response Sheet (*required documents*) should be the first page of your written response.

1. Cover Page – Submit on letterhead stationary, signed by a duly authorized officer, employee, or agent of the organization/firm including firm name, address and telephone numbers.

2. Experience of the Respondent:

A sufficient description of the experience and knowledge base of the Proposer to show the Proposer's capabilities should be included in the Proposal. At a minimum, the description of the experience and knowledge base of the Proposer included in the Proposal should include, but not necessarily be limited to, the following:

- a. A brief description of the history and mission of the Proposer, including the Respondent's background and mission statement, the length of time the Proposer has been in business, a description of the Proposer's organizational structure and a description of the Proposer's customer make-up.
- b. A statement of how long the Proposer has provided services similar to the Services requested herein.
- c. A general description of the Proposer experience and background in providing services similar to the Services requested herein.
- d. Any other relevant information about the experience and knowledge base of the Proposer, which is deemed material.

3. List and describe project experience working with local, state and federal agencies.

4. List of key personnel and their experience

- a. A description of current relevant certifications of the Proposer's technical staff (see Attachment 2).
- b. A description of the current experience level of the Proposer's technical staff (see Attachment 2).

- c. Any other relevant information about the capabilities of the Proposer deemed to be material (see Attachment 2).
5. List the names of any outside consultants or firms that will be used to complete the Services required and how they will contribute the project.
6. State the level of minority or LOSB participation used to complete the project.
7. Give a detailed description of the approach for accomplishing the services including the methodology, key steps and a timeline.
8. References – Give references of the Proposer, including at least three (3) other clients for whom the Proposer has provided services similar to the Services (with preference given to clients comparable to Shelby County Government) and, for each such reference, the business name, the identification of a contact person, the title of the contact person and a telephone number.
9. Cost and Fees - Inclusion of a fee is not required. Your proposal if selected will form the basis of negotiation for a design services agreement with Shelby County Government.

X. PROPOSAL EVALUATION AND SELECTION

A. Evaluation Process

1. Initial Review – All proposals shall be initially evaluated to determine if they meet the following minimum requirements:
 - a. The proposal must be complete, in the required format, and comply with all the requirements of the RFP.
 - b. Proposers must meet the Minimum Proposer Requirements outlined in Section II of this RFP.
2. Technical Review- Submittals will be reviewed by a Consultant Review Committee (CRC). Shelby County will have the option of identifying the consultant most qualified to provide the services based on the proposals or conduct interviews of the top three to five proposers to determine the most qualified firm.
3. Oral Presentation - The Shelby County Government reserves the right to interview, or require an oral presentation from any respondent for clarification of information set forth in the Proposer's response. In this regard, at the discretion of the evaluation committee, some or all Proposers who submit a Proposal in response to this RFP may be asked to submit to an interview or give an oral presentation of their respective Proposals to the evaluation committee. If so, this is not to be a presentation restating the Proposal, but rather an in-depth analysis of certain qualifications of the Proposer. The interview or oral presentation, if utilized, is intended to provide an opportunity for the Proposer to clarify or elaborate on its qualifications without restating the Proposal. The interview or oral

presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of the contract. If required, the time and location of such interview or oral presentation shall be scheduled by the Administrator of Purchasing. Interviews and oral presentations are strictly an option of the Shelby County Government or its evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the responsibility of the Proposer.

Selection shall be based on determination of which proposal best meets the needs of the County and the requirements of this RFP.

Shelby County Government reserves the right to consider the vendor's EOC rating in all evaluations.

B. Contract Award

Contract(s) shall be awarded based on a competitive selection of proposals received. The contents of the proposal of the successful Proposer shall become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award. The County reserves the right to negotiate any portions of the successful Proposers fees and scope of work or utilize their own resources for such work