

**NORTH CAROLINA
DURHAM COUNTY**

**CONTRACT AMENDMENT
RFP 20-016**

THIS CONTRACT AMENDMENT is made and entered into this **1st day of July, 2022**, by and between the **COUNTY OF DURHAM** (hereinafter referred to as "**County**") and **dba HYDROSTRUCTURES, P.A. (DUKE'S ROOT CONTROL, INC.)** (hereinafter referred to as "**Contractor**").

WITNESSETH:

THAT WHEREAS, the County and Contractor entered into a contract dated July 1, 2020, Funds Reservation Number 21-575, for the provision of inspection, assessment, and labeling of each manhole in the Durham County sanitary sewer collection system, per RFP 20-016, (hereinafter the "Original Agreement"); and

WHEREAS, the County and Contractor amended the Original Agreement on July 1, 2021, Funds Reservation Number 22-368; and

WHEREAS, the County and Contractor desire to *renew* the Original Agreement, *a second time for the FY23 service period*, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. The Term of the Original Agreement is hereby extended through **June 30, 2023**.
2. The compensation paid to Contractor shall be an amount not to exceed of **Ninety-two thousand and No/100 Dollars (\$92,000.00)**.
3. By execution hereof, the person signing for Contractor below certifies that he/she has read this Contract Amendment and that he/she is duly authorized to execute this contract on behalf of the Contractor.
4. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties have expressed their agreement to these terms by causing this Contract Amendment to be executed by their duly authorized office or agent. This Contract Amendment shall be effective as of the date herein.

COUNTY OF DURHAM

DocuSigned by:

By: Dr. Kimberly J. Sowell
Dr. Kimberly J. Sowell, County Manager

Date of Signature: 10/9/2022

HYDROSTRUCTURES, P.A

DocuSigned by:

By: Michael S. Koonce
Michael S. Koonce, President

Date of Signature: 10/6/2022

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:

Susan Tezai
Susan Tezai, Durham County Chief Financial Officer



Headquarters: 400 Airport Rd., Suite E | Elgin, IL 60123

Field Office: 126 Commerce Court Pittsboro, NC 27312

July 19, 2022

Stephanie Brixey

Durham County

5926 Highway 55 East

Durham, NC 27713

sbrixey@dconc.gov

Re: Manhole Inspection and Labeling Contract, FY 23 Renewal

Dear Ms Brixey

This letter will serve as official certification that Duke's Root Control, Inc. will honor all contract terms and conditions for the Durham County Collection System Manhole Inspections and Labeling Contract (RFP 20-016) through FY 25

If you have any questions or need any additional information, please give me a call at (919) 542-5002.

Sincerely,
DUKES ROOT CONTROL, INC.

Michael S. Koonce

Michael S. Koonce

Vice President



July 5, 2022

Stephanie Brixey
Deputy Director / POTW Director
5926 Highway 55 East
Durham, NC 27713

**Re: High Priority Line Visual Inspections
Durham County, NC**

Dear Ms. Brixey,

Understanding

Durham County monitors approximately 57 high priority lines as part of the County's NPDES permit with the North Carolina Division of Water Resources. As part of the permit the high priority lines must be inspected on a semi-annual basis. Duke's (formerly Hydrostructures) has performed yearly manhole inspections for the County and our staff is very familiar with the system. Since these manholes are currently visited once a year to evaluate the structural and maintenance conditions at each manhole, these inspections can be leveraged to meet the NPDES permit requirement. This proposal is for Duke's to provide the semi-annual inspection and reporting services for the County. Duke's will meet with Durham County staff to confirm the scope listed below.

Scope

Durham County has a list of 57 high priority areas it must inspect semiannually to meet conditions of the NPDES permit WQCS00038. Duke's is currently under contract to perform manhole condition and maintenance assessments on the majority of the collection system manholes each year. Review of the high priority list shows that 623 manholes are inside the High Priority Inspection Areas. Each high priority section includes 2 pipes for visual inspection. This will allow the conditions entering and leaving the site to be documented along with any creek crossings or other areas of concern.

Duke's will build a location-enabled, cloud-based data collection form to capture all relevant data during the visual field inspection. The existing locations from the GIS will be used to ensure the correct area is inspected. During the field inspection the following services will be performed:

- All manholes in each priority area will be opened and visually inspected. The flow depth and an approximate velocity will be collected and documented at a point along the area.
- Photos of the manhole interiors will be collected.
- Photos documenting the ground conditions in the area will be collected.
- Stream crossings will be photographed, and the pipe will be visually inspected.
- The stream bank and any erosion will be photographed and documented.



Following the field inspections, Duke's GIS and Engineering staff will create a brief summary report for each area including all photos and field notes. Each site will be packaged as an individual pdf report.

As the high priority line inspections are semiannual, each area pdf report will be given a FY23-1 or FY23-2 suffix to allow the data to be organized for ease of reporting to Division of Water Resources.

Project Fee

Dukes proposes to perform all the tasks described above for the following unit prices:

First Inspection* (623 MH @ \$42/EA 114 pipes @ 42/ EA)	\$ 30,954.00
Second Inspection 623 MH @ \$42/EA 114 pipes @ 42/ EA)	\$ 30,954.00
Total	\$ 61,908.00

* Note that the manholes were already included in the existing contract for one inspection per year. The additional cost of the high priority inspection cost is \$35,742.

Project Schedule

Dukes will coordinate with Durham County at a kick-off meeting following a Notice to Proceed. A formal schedule will be provided within 1 week of the kick-off meeting.

We very much appreciate the opportunity to assist you with this project. If you have any questions or need any additional information, please give me a call at (919) 542-5002.

Sincerely,

Duke's

A handwritten signature in blue ink that reads "Jeffrey B. Koonce".

Jeffrey Koonce

SUBMITTED BY: Jeff Koonce DATE: 7/5/2022

APPROVAL BY: _____ DATE: _____ *

*Notice to Proceed Date



SCHEDULE OF RATE AND FEES

(Effective January 1, 2022)

Principal Engineer (Engineer V)	\$230/hr
Senior Project Manager (Engineer IV)	\$200/hr
Project Manager (Engineer III)	\$158/hr
Project Engineer (Engineer II)	\$138/hr
Engineering Intern (Engineer I)	\$112/hr
Engineer/Field Technician V (Field Ops Manager)	\$200/hr
Engineer/Field Technician IV (Superintendent)	\$112/hr
Engineer/Field Technician III (Foreman)	\$100/hr
Engineer/Field Technician II (Operator)	\$ 90/hr
Engineer/Field Technician I	\$ 80/hr
GIS Manager (GIS IV)	\$170/hr
GIS/CAD Specialist III	\$112/hr
GIS/CAD Specialist II	\$ 90/hr
GIS/CAD Specialist I	\$ 80/hr
Construction Manager	\$ 110/hr
Construction Inspector II	\$ 90/hr
Construction Inspector I	\$ 80/hr
Surveyor III (Survey Manager)	\$ 110/hr
Surveyor II	\$ 90/hr
Surveyor I	\$ 55/hr
Administrative	\$ 50/hr

Pittsboro, NC (p) 919.542.5002 • Winston-Salem, NC (p) 336.497.5798
Virginia Beach, VA (p) 757.631.7989 • Cayce, SC (p) 803.563.5237

Attached for Reference
Hydrostructures, P.A
FY22 Renewal Request
Dated: 07/01/21

**NORTH CAROLINA
DURHAM COUNTY****CONTRACT AMENDMENT
RFP 20-016**

THIS CONTRACT AMENDMENT is made and entered into this **1st day of July, 2021**, by and between the **COUNTY OF DURHAM** (hereinafter referred to as "**County**") and **HYDROSTRUCTURES, P.A.**, (hereinafter referred to as "**Contractor**").

WITNESSETH:

THAT WHEREAS, the County and Contractor entered into a contract dated July 1, 2020, Funds Reservation Number 21-575, for the provision of inspection, assessment, and labeling of each manhole in the Durham County sanitary sewer collection system, (hereinafter the "Original Agreement"); and

WHEREAS, the County and Contractor desire to amend the Original Agreement *a first time for the fiscal year 22 service period*, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. The Term of the Original Agreement is hereby extended through **June 30, 2022**.
2. The compensation paid to Contractor shall be an amount not to exceed of **Ninety-two thousand and No/100 Dollars (\$92,000.00)**.
3. By execution hereof, the person signing for Contractor below certifies that he/she has read this Contract Amendment and that he/she is duly authorized to execute this contract on behalf of the Contractor.
4. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties have expressed their agreement to these terms by causing this Contract Amendment to be executed by their duly authorized office or agent. This Contract Amendment shall be effective as of the date herein.

COUNTY OF DURHAM

DocuSigned by:

Claudia B. Hager

2B24CE2253F7468...

County Manager

HYDROSTRUCTURES, P.A

DocuSigned by:

Michael Koonce

0E22BCBA9FF04FC...

Michael S. Koonce, President

Date of Signature: 9/4/2021Date of Signature: 9/2/2021

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:

Susan Tejai

89F38A960267458...

Susan Tejai, Durham County Chief Financial Officer



SCHEDULE A

SCHEDULE OF RATE AND FEES

(Effective January 1, 2021)

Principal Engineer (Engineer V)	\$220/hr
Senior Project Manager (Engineer IV)	\$190/hr
Project Manager (Engineer III)	\$150/hr
Project Engineer (Engineer II)	\$130/hr
Engineering Intern (Engineer I)	\$105/hr
Engineer/Field Technician V (Field Ops Manager)	\$190/hr
Engineer/Field Technician IV (Superintendent)	\$105/hr
Engineer/Field Technician III (Foreman)	\$ 95/hr
Engineer/Field Technician II (Operator)	\$ 85/hr
Engineer/Field Technician I	\$ 75/hr
GIS Manager (GIS IV)	\$160/hr
GIS/CAD Specialist III	\$105/hr
GIS/CAD Specialist II	\$ 85/hr
GIS/CAD Specialist I	\$ 75/hr
Construction Manager	\$ 95/hr
Construction Inspector II	\$ 85/hr
Construction Inspector I	\$ 75/hr
Surveyor III (Survey Manager)	\$ 95/hr
Surveyor II	\$ 85/hr
Surveyor I	\$ 45/hr
Administrative	\$ 45/hr

Attached for Reference
Hydrostructures, P.A. Initial Contract
Dated 07/01/20



North Carolina
Durham County

CERTIFICATION

I, Monica W. Toomer, the duly appointed and qualified Clerk of the Durham County Board of County Commissioners, do hereby certify that the foregoing is a true and correct copy of:

Board of County Commissioners approved to enter into a standard service contract in the amount of \$92,000.00 with Hydrostructures, PA for Manhole Inspection Services for the Utilities Division's sewer collection system.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of Durham County, this 8th day of June 2020.



MONICA W. TOOMER

Clerk to the Board of County Commissioners

**NORTH CAROLINA
DURHAM COUNTY**

**SERVICE CONTRACT
RFP 20-016**

THIS CONTRACT is made, and entered into this the **1st day of July, 2020**, by and between the **COUNTY of DURHAM**, a political subdivision of the State of North Carolina, (hereinafter referred to as “COUNTY”), and **HYDROSTRUCTURES, P.A.**, a corporation duly authorized to do business in the state of North Carolina, (hereinafter referred to as “CONTRACTOR”).

For and in consideration of mutual promises to each as herein after set forth, the parties hereto do mutually agree as follows:

- 1. SCOPE OF SERVICES.** CONTRACTOR hereby agrees to provide the services and/or materials under this contract pursuant to the provisions and specifications identified in “Attachment 1” (hereinafter collectively referred to as “Services”). Attachment 1 is hereby incorporated herein and made a part of this contract. Time is of the essence with respect to all provisions of this contract that specify a time for performance.

The COUNTY will perform on-going contract monitoring to ensure that the terms of this contract are complied with. CONTRACTOR agrees to cooperate with the COUNTY in its monitoring process and provide documentation and/or information requested during the term of this Agreement for the purpose of monitoring the services provided by CONTRACTOR.

- 2. EFFECTIVE DATE AND TERM OF CONTRACT.** The “effective date” of this Contract shall be the date first set forth above in the preamble to this Contract, irrespective of the date of execution by the parties. The first date written above is **July 1, 2020**. All renewal or non-renewal periods or deadlines stated in this Contract, if any, shall be calculated based on the “effective date” indicated above.

The Term of this contract for services is from **July 1, 2020 to June 30, 2021** unless sooner terminated as provided herein.

- 3. PAYMENT TO CONTRACTOR.** CONTRACTOR shall receive from COUNTY an amount not to exceed of **Ninety-two thousand and No/100 Dollars (\$92,000.00)** as full compensation for the provision of Services. COUNTY agrees to pay CONTRACTOR at the rates specified for Services performed to the satisfaction of the COUNTY, in accordance with this contract, and Attachment 1. Unless otherwise specified, CONTRACTOR shall submit an itemized invoice to COUNTY by the end of the month during which Services are performed. A Funds Reservation number may be assigned to encumber the funds associated with this contract and must appear on all invoices and correspondence mailed to Purchaser. Payment will be processed promptly upon receipt and approval of the invoice by COUNTY.

- 4. INDEPENDENT CONTRACTOR.** COUNTY and CONTRACTOR agree that CONTRACTOR is an independent contractor and shall not represent itself as an agent or employee of COUNTY for any purpose in the performance of CONTRACTOR’s duties under this Contract. Accordingly, CONTRACTOR shall be responsible for payment of all federal, state and local taxes as well as business license fees arising out of CONTRACTOR’s activities in accordance with this Contract. For purposes of this contract taxes shall include, but not be limited to, Federal and State Income, Social Security and Unemployment Insurance taxes.

CONTRACTOR, as an independent contractor, shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies.

- 5. CONFIDENTIALITY, DATA SECURITY, TRAINING AND NON-DISCLOSURE.** CONTRACTOR acknowledges and agrees that, in the course of its engagement with COUNTY, CONTRACTOR or its licensors, subcontractors or suppliers in connection with the services to be rendered under this Contract may receive or have access to “confidential information” or “personal identifiable information”.

CONTRACTOR or its licensors, contractors or suppliers has obtained or may need to obtain confidential information from the COUNTY in connection with the provision of services to the COUNTY or the discussions of such a proposed relationship.

The COUNTY and CONTRACTOR desire to stipulate and agree that any disclosure of confidential information in connection with the provision of services or the discussion of such a proposed relationship has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information.

In consideration of the pursuit of current discussions and payment for the services, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

5.1 DEFINITIONS. As used in this Contract, the following terms shall have the meanings set forth below:

Confidential Information. The term “Confidential Information” shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, which falls within any of the following general categories:

- a. Trade Secrets. For purposes of this Contract, trade secrets consist of information of the COUNTY or CONTRACTOR or any of its suppliers, contractors or licensors: (a) that Derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- b. Highly Restricted Information. CONTRACTOR acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) CONTRACTOR will also comply with any more restrictive instructions or written policies that may be provided by the COUNTY from time to time to protect the confidentiality of Highly Restricted Information, as defined below:
 1. Information of the COUNTY or its suppliers, contractors or licensors marked “Confidential” or “Proprietary.”
 2. Information relating to criminal investigations conducted by the COUNTY, and records of criminal intelligence information compiled by the COUNTY.
 3. Information contained in the COUNTY’s personnel files, as defined by NCGS §153A-98. This consists of all information gathered by the COUNTY about employees, except for that information which is a matter of public record under North Carolina law.
 4. Citizen or employee social security numbers collected by the COUNTY.
 5. Computer security information of the COUNTY, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
 6. Local tax records of the COUNTY that contained information about a taxpayer’s income or receipts.
 7. Any attorney/client privileged information disclosed by either party.

8. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
9. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
10. Protected Information (PHI), as defined in the Insurance Portability and Accountability Act (HIPAA), and any other information that is designated as confidential under federal or state law.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential information shall include information disclosed or revealed within one year prior to the date of this Contract.

Personal Identifiable Information. The term “Personal Identifiable Information” shall mean information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked to a specific individual.

5.2 RESTRICTIONS. CONTRACTOR shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- a. Not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the COUNTY in writing.
- b. Not directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an employee, agent, subcontractor or CONTRACTOR of the COUNTY or CONTRACTOR having a need to know such Confidential Information for purpose or performing work contemplated by this Contract between the COUNTY and CONTRACTOR, and who has executed a confidentiality agreement incorporating substantially the form of this Confidentiality and Non-Disclosure Agreement. CONTRACTOR shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted Information to any third party without the County’s prior written consent.
- c. Not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written contracts between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
- d. Not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
- e. Use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
- f. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, CONTRACTOR shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- g. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the COUNTY or destroyed upon satisfaction of the purpose of the disclosure of such information.

- h. Restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
- i. Take all reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract.

5.3 EXCEPTIONS. The COUNTY agrees that CONTRACTOR shall have no obligation with respect to any Confidential Information that CONTRACTOR can establish was:

- a. Already known to CONTRACTOR prior to being disclosed by the COUNTY;
- b. Or becomes publicly known through no wrongful act of CONTRACTOR;
- c. Rightfully obtained by CONTRACTOR from a third party without similar restriction and without breach hereof;
- d. Used or disclosed by CONTRACTOR with the prior written authorization of the COUNTY;
- e. Disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, CONTRACTOR shall first give to the other party notice of such requirement or request;
- f. Disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued Subpoena, provided that CONTRACTOR shall take reasonable steps to obtain an agreement or protective order providing that this Agreement will be applicable to all disclosures under the court order or subpoena.

5.4 REMEDIES. CONTRACTOR acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the COUNTY's proprietary interests therein. Accordingly, it is agreed that if CONTRACTOR breaches its obligations hereunder, the COUNTY shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

5.5 DATA SECURITY. The CONTRACTOR shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations and rules.

The CONTRACTOR shall report a suspected or confirmed security breach to the COUNTY Department within twenty-four (24) hours after the breach is first discovered, provided that the CONTRACTOR shall report a breach involving Social Security Administration data or Internal Revenue Service data within one (1) hour after the breach is first discovered.

If any applicable Federal, State, or local law, regulation, or rule requires the CONTRACTOR to give written notice of a security breach to affect persons, the CONTRACTOR shall bear the cost of the notice.

5.6 TRAINING AND NON-DISCLOSURE. Upon request by the COUNTY, CONTRACTOR agrees to ensure compliance and the security of "confidential information" and "personal identifiable information", by having its employees, agents and subcontractors take online privacy and security awareness training provided by COUNTY, by way of an internet link or some other electronic method to be provided by COUNTY. CONTRACTOR, at the request of COUNTY, shall execute a non-disclosure agreement if, and when submitted by COUNTY.

- 6. INDEMNIFICATION.** To the fullest extent permitted by law, COUNTY hereby reserves the right to recover legal expenses including attorney fees, litigation expenses and court costs as well as actual damages or losses suffered by COUNTY, if CONTRACTOR is found to be a proximate cause of damages or losses suffered by COUNTY, resulting from CONTRACTOR's performance during the execution of this Contract.
- 7. INSURANCE.** CONTRACTOR shall procure and maintain for the duration of the contract the following insurance coverage from an insurance company(s) possessing a rating of A-VII or higher from the A.M. Best Company and licensed to do business in North Carolina. All of the policies required of the CONTRACTOR shall contain a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the COUNTY. In the event CONTRACTOR'S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning "waiver of subrogation" this contract shall govern. CONTRACTOR shall advise the COUNTY of any cancellation, non-renewal, or material change in any policy within ten (10) days of notification of such action and provide updated certificates of insurance evidencing renewals within fifteen (15) days of expiration. CONTRACTOR'S insurance shall be primary and any insurance or self-funded liability programs maintained by the COUNTY shall not contribute with respect to the CONTRACTOR's insurance. COUNTY shall not be listed as an additional insured on any Insurance Policy or Certificate of Insurance of the CONTRACTOR. In the event CONTRACTOR'S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning "additional insured" this contract shall govern.

7.1 Commercial General Liability: Insurance Services Office (ISO) Form CG 00 01 on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** aggregate.

7.2 Commercial Automobile Liability: ISO Form CA 00 01 covering any auto with limit not less than **\$1,000,000** per accident for bodily injury and property damage.

7.3 Worker's Compensation and Employers Liability: as required by The State of North Carolina, with statutory limits, and Employers Liability Insurance with a limit of no less than \$1,000,000 per occurrence.

By requiring insurance herein, the COUNTY does not represent that coverage and limits will necessarily be adequate to protect CONTRACTOR, and such coverage and limits shall not be deemed as a limitation on CONTRACTOR's liability under the indemnities granted to the COUNTY in this Contract. CONTRACTOR shall provide the COUNTY a valid certificate of insurance, in advance of the performance of any work, exhibiting coverage required. CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

The failure of the COUNTY at any time to enforce the insurance provisions, to demand such certificates of insurance, or to identify a deficiency shall not constitute a waiver of those provisions, nor reduce obligations of the CONTRACTOR to maintain such insurance or to meet its obligations under the indemnification provisions. Notwithstanding the foregoing, nothing contained in this section shall be deemed to constitute a waiver of the governmental immunity of the COUNTY, which immunity is hereby reserved to the COUNTY.

8. TERMINATION.

8.1 EVENT OF DEFAULT. Any one or more of the following acts or omissions of the Contractor shall constitute an Event of Default hereunder:

- a. Failure to perform the Services satisfactorily or on schedule,
- b. Failure to submit any report required hereunder; and/or
- c. Failure to perform any other covenant, term, or condition of this Agreement.

Upon the occurrence of an Event of Default, the COUNTY may take one or more, or all of the following actions:

- a. Give Contractor written Notice of the Event of Default, specifying the Event of Default and requiring it to be remedied within, in the absence of greater or lesser specification of time, seven (7) calendar days from the date of the notice; and if the Event of Default is not timely remedied, terminate the agreement, effective two (2) days after giving the Contractor written Notice of Termination; and/or
- b. Deduct any and all expenses incurred by the COUNTY for damages caused by the Contractor's Event of Default; and/or
- c. Treat the agreement as breached and pursue any of its remedies at law or in equity, or both, including damages and specific performance.

8.2 TERMINATION FOR CONVENIENCE. This Contract may be terminated, without cause, by either party upon thirty (30) days written notice to the other party. This termination notice period shall begin upon receipt of the Notice of Termination.

Termination of this Contract, under either section 8.1 or 8.2, shall not form the basis of any claim for loss of anticipated profits by either party.

9. COUNTY NOT RESPONSIBLE FOR EXPENSES. COUNTY shall not be liable to CONTRACTOR for any expenses paid or incurred by CONTRACTOR, unless otherwise agreed in writing.

10. EQUIPMENT. CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide Services hereunder, unless otherwise agreed in writing.

11. COMPLIANCE WITH LAWS. CONTRACTOR shall abide by all statutes, rules, regulations, laws, and executive orders Federal, State and Local as they relate to, but are not limited to, (i) services in general, (ii) payment of employees, subcontractors and agents, (iii) the Fair Labor Standards Act and (iv) the Wage and Hour Division. In the event CONTRACTOR is determined by the final order of a court or appropriate agency to be in violation of any Federal, State or Local statute, rule, regulation, law or executive order or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY and CONTRACTOR may be declared ineligible for further COUNTY contracts.

12. HEALTH AND SAFETY. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs required by OSHA and all other regulatory agencies while providing Services under this Contract.

13. NON-DISCRIMINATION IN EMPLOYMENT. CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin, or disability. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed and that employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, or disability. In the event CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY, and CONTRACTOR may be declared ineligible for further COUNTY contracts.

14. EMPLOYMENT ADVERTISING REQUIREMENTS. CONTRACTOR shall post local job openings, in connection with this contract, with the City of Durham's Office of Economic and Workforce Development, the North Carolina Department of Commerce-Division of Employment Services (formerly ESC, Employment Security Commission) and with the Durham COUNTY Department of Social Services throughout the term of this Agreement; provided that the foregoing requirement does not limit CONTRACTOR'S ability to advertise and/or otherwise post job openings with other organizations or media outlets.

15. E-VERIFY. As a condition of payment for services rendered under this agreement, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if CONTRACTOR provides the services to the COUNTY utilizing a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. CONTRACTOR shall verify, by affidavit, compliance of the terms of this section upon request by the COUNTY.

16. AFFORDABLE CARE ACT REQUIREMENTS (Applicable Only to Staffing Agencies). Beginning in 2015, employers with 100 or more full-time equivalent employees (50 or more beginning in 2016) must offer health insurance coverage that is affordable and provides "minimum value" to full-time employees and dependents as defined by the Patient Protection and Affordable Care Act or face penalties. Staffing companies under contract with Durham COUNTY are required to provide affordable minimum essential coverage as defined by the Patient Protection and Affordable Care Act and to indemnify Durham COUNTY against any 4980H penalties that result from their failure to provide the appropriate coverage. By signing this contract as a Staffing Company, CONTRACTOR shall comply with the aforementioned health insurance coverage requirements of the Affordable Care Act and to indemnify the COUNTY against any associated 4980H penalties. Please complete Exhibit A and return with this contract.

17. SECURITY BACKGROUND CHECKS. The Contractor is responsible for requesting and paying for criminal history checks on all individuals providing services under this contract who will be obtaining COUNTY identification badges and allowed unescorted access to COUNTY facilities. Background checks can be provided by any vendor, or from a North Carolina State agency, providing that the criminal history check is done nationwide. The Sheriff's Office will conduct background investigations for those Contractor employees who will be working at the Courthouse or Detention Center. A criminal history will not automatically disqualify a Contractor employee from employment on a COUNTY contract unless explicitly mandated by law.

The Contractor will send the results of the background checks, prior to commencing work at Durham County Government, to their County point of contact who will provide them to the Durham County Security Manager. The Security Manager will individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in Durham County buildings. The Security Manager will consult the Legal Office, as needed, on any negative determinations. The Security Manager will notify the Contractor's County point of contact of the results of the review. A Contractor can appeal a negative determination by the Security Manager to the County Manager or his designee for final disposition. Appeals need to be submitted in writing to the contract point of contact within 30 days of notice of a decision to remove or deny an individual from working the County contract due to adverse information in the background check.

This information shall be updated annually by the Contractor, 90 days prior to the renewal or extension of the contract and submitted to their County point of contact who will provide them to the Durham County Security Manager. Personnel without a currently approved background check will have their access to those buildings disabled.

Additional background screening may be necessary at specific COUNTY buildings. The Contractor shall provide names of all individuals in the Contractor communications log and to the COUNTY Representative. This information will be reviewed annually.

For those Contractor employees who will be working at the Courthouse or Detention Center, the Sheriff's Office will make the security determination. The Contractor will provide the results of their background check to the Major for Support Services who will conduct an additional investigation and then individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in the Courthouse or Detention Facility. A Contractor can appeal a negative determination to the Chief Deputy for final disposition. Appeals need to be submitted in writing to the Chief Deputy within 30 days of notice of a decision to remove or deny an individual

from working the contract due to adverse information in the background check. While an appeal is pending, the employee will not be allowed access to the Courthouse or Detention Facility.

This information will be updated by the Contractor and submitted to the Sheriff's Office annually, 90 days prior to the renewal or extension of the contract. Personnel without a currently approved background check will have their access to those buildings restricted.

18. AUDIT RIGHTS. For all Services being provided hereunder, COUNTY shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records and other writings relating to the performance of the Services. Audits shall take place at times and locations mutually agreed upon by both parties. Notwithstanding the foregoing, CONTRACTOR must make the materials to be audited available within one (1) week of the request for them.

19. DISPUTE RESOLUTION PROCEDURE. To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between COUNTY and the CONTRACTOR, arising from this Agreement or the services and/or materials being provided by the CONTRACTOR, shall be sent to the Durham COUNTY Manager who shall appoint a qualified mediator to address the issue. Such request shall be submitted to the COUNTY Manager in writing within ten (10) days of the claim or dispute. Upon receipt of a timely written claim, the Manager, or his designee, shall notify the Mediator who will conduct a mediation and notify the CONTRACTOR in writing of the decision within forty-five (45) calendar days from the date of the submission of the claim or dispute, unless the Mediator requires additional time to gather information or allow the parties to provide additional information. The Mediator's orders, decisions and decrees shall be non-binding. Mediation, pursuant to this provision, shall be a pre-condition to initiating litigation concerning the dispute. During the pendency of any dispute and after a determination thereof, parties to the dispute shall act in good faith to mitigate any potential damages including utilization of schedule changes and alternate means of providing services and/or materials. The costs of mediation shall be divided equally between parties to the dispute.

The mediation session shall be private and shall be held in Durham COUNTY, North Carolina. Mediation under this provision shall not be the cause for a delay of services and/or materials being provided which is the focus of the dispute.

If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the COUNTY of Durham and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this provision, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

20. EXISTENCE. CONTRACTOR warrants that it is a corporation or otherwise legal entity duly organized, validly existing, and in good standing under the laws of the State of North Carolina and is duly qualified to do business in the State of North Carolina and has full power and authority to enter into and fulfill all the terms and conditions of this contract.

21. CORPORATE AUTHORITY. By execution hereof, the person signing for CONTRACTOR below certifies that he/she has read this contract and that he/she is duly authorized to execute this contract on behalf of the CONTRACTOR.

22. SUCCESSORS AND ASSIGNS. CONTRACTOR shall not assign its interest in this Contract without the written consent of COUNTY. CONTRACTOR has no authority to enter into contracts on behalf of COUNTY.

- 23. NOTICES.** All notices which may be required by this contract or any rule of law shall be effective when received by certified mail sent to the following addresses:

**COUNTY OF DURHAM
ATTN: PURCHASING DEPARTMENT
4TH FLOOR, 200 EAST MAIN STREET
DURHAM, NORTH CAROLINA 27701**

**CONTRACTOR
HYDROSTRUCTURES, P.A.
PO BOX 1537
PITTSBORO, NORTH CAROLINA 27312**

- 24. HEADINGS.** The subject headings of the sections are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This contract shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary.

- 25. GOVERNING LAW.** This Contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Contract shall be brought in the General Court of Justice in the COUNTY of Durham and the State of North Carolina.

- 26. REQUIRED PROVISIONS FOR CONTRACTS/AGREEMENTS/GRANTS UTILIZING FEDERAL FUNDS.** Pursuant to the Federal Uniform Guidance Appendix II to 2 CFR Part 200, if Federal Funds are involved in this Contract/Agreement/Grant Agreement, by executing this Contract/Agreement/Grant Agreement, the Contractor/Vendor/Grantee, certifies that it agrees to and is in compliance with the provisions specified in Exhibit B – Federal Uniform Guidance Contract Provisions Certification.

- 27. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MWBE) PROGRAM.** It is the policy of the County to provide minorities and women-owned businesses equal opportunity to participate in all aspects of the County's contracting programs, including but not limited to, the procurement of construction, goods and services consistent with law. The County has established an ordinance and implements an MWBE Program based on the ordinance, that promotes, increases and works towards eradicating the underutilization of minorities and women-owned businesses in the County's contracting programs.

- 28. ENTIRE CONTRACT.** This contract, including Attachment 1, and if applicable Exhibit A and Exhibit B, shall constitute the entire understanding between COUNTY and CONTRACTOR and shall supersede all prior understandings and agreements relating to the subject matter hereof and may be amended only by written mutual agreement of the parties.

IN TESTIMONY WHEREOF, the parties have expressed their agreement to these terms by causing this Service Contract to be executed by their duly authorized officer or agent.


COUNTY OF DURHAM

DocuSigned by:

25D26F6761984F5... Manager

Date of Signature: 10/30/2020

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DocuSigned by:

89F38A960267458...i, Durham County Chief Financial Officer

HYDROSTRUCTURES, P.A

DocuSigned by:

0E22BCBA9FF04FC... President

Date of Signature: 10/29/2020

ATTACHMENTS to follow



SCOPE OF SERVICES FORM

This Scope of Services is an integral part of this contract between the **COUNTY OF DURHAM** (“County”), and **HYDROSTRUCTURES, P.A.** (“Contractor”), which contract is dated **July 1, 2020**. Contractor agrees to provide services and/or materials pursuant to the provisions set forth below.

- I. **Background/Purpose:** The purpose and intent of this request is to establish a contract with Hydrostructures to inspect, assess, and label each manhole in the Durham County sanitary sewer collection system. The inspection is a requirement of the collection system permit and the labelling of the structures will allow more accurate record keeping and assist field crews in knowing where issues of maintenance arise.
- II. **References:** The following documents are incorporated herein by reference to them:
 - Contractor RFP 20-016, Proposal Form Dated March 3, 2020
- III. **Work/Requirements:** In accordance with the attached proposal, provided by the contractor; the contractor will furnish the material, equipment, & labor to execute the work. Work is to be completed throughout the collection system in the southeast region of Durham County. Contractor shall inspect and assess approximately 2,300 manholes and appurtenances for cracks, corrosion, roots, flow restriction, inflow and intrusion, and any such blockages that would prevent flow of the sewer system. Contractor will produce an individual manhole report for each structure inspected, digital photograph(s) documenting issues with each structure and an electronic copy of all data collected. Hydrostructures will also ensure all manholes are labeled and GPS any new manholes which will be added to the sewer database for mapping purposes.
- IV. **Schedules/Timelines:** The Contractor shall provide service to the County 8:00 AM – 4:00 PM, Monday through Friday. The Contractor shall complete operations before or by June 30, 2021.
- V. **Transmittal/Delivery/Accessibility:** Hydrostructures will produce an individual manhole report for each structure inspected, digital photograph(s) documenting issues with each structure and an electronic copy of all data collected. Our primary contact at Hydrostructures is Jeff Koonce, O: (919) 542-5002, Email: Jeffrey.koonce@hydrostructures.com. Stephanie Brixey, E&ES Deputy Director, Desk: (919) 560-9034, Cell: (919) 201-0104, E-mail: sbrixey@dconc.gov, will be the primary Durham County contact with Vince Chirichella, Sr. Project Manager, Desk: (919) 560-9039, Cell: (919) 748-9300, E-mail: vchirichella@dconc.gov, as the secondary contact.
- VI. **Payment:** Invoices and/or additional submittals shall be forwarded to County Primary Contact for review. Upon payment authorization, invoices will be paid net 30. Invoices and forms submitted **MUST** reference Durham County Funds Reservation Number assigned to this contract. Authorization of payments will be forwarded to the Finance Department dependent on receipt of all forms. The County may withhold payment if required reports or submittals are not received. For this work the contractor will be paid per submitted invoices, based on quoted rates, up to an annual total not to exceed of \$92,000.00, in accordance with Durham County Policies and Terms of Agreement following work completion. Invoices should be mailed to Durham County Utilities – TWWTP, ATTN: Accounts Payable, 5926 Highway 55 East, Durham, NC 27713 or e-mailed to utilities@dconc.gov.

Attachment A**PROPOSAL FORM****Manhole Inspection Services for Durham County Utilities Division
RFP No. 20-016**

In accordance with the attached instructions, terms, conditions, and Scope of Services we submit the following proposal to the County of Durham.

This price shall include labor, materials, supervision, equipment, appliances, and materials to perform all operations required to do manhole inspections and reporting as specified in the scope.

Description	Units	Estimated Quantity	Unit Price
Collection System Manhole Inspection, Report and Label	each	2,300	\$ <u>40.00</u>

I certify that the contents of this proposal are known to no one outside the firm, and to the best of my knowledge all requirements have been complied with.

Date: 3.03.2020

Authorized Signature:

Name Michael S. Koonce, P.E.

3.03.2020

Title

Hydrostructures, P.A.

Firm Name



ATTACHMENT

MWBE Compliance Review Form - Agenda Action Form (AAF)

Department: Engineering/Utilities Division

Project Name: Manhole Inspection Services

Durham County hereby establishes the following aspirational goals, which may be adjusted from time to time as deemed necessary by the County Manager or designee.

Categories	Construction	Architect/ Engineer	Services	Goods	MWBE Availability % <i>(Median Availability)</i>
Black American	14.6	9.8	10.9	2.8	10.4%
Asian American	1.3	3.0	1.1	.43	1.3%
Hispanic American	4.2	1.8	1.1	.43	1.5%
American Indian	.65	.75	1.0	.5	.70%
White Female	13.8	11.0	9.5	7.1	10.3%
Overall MWBE Participation Goal =					25.0%

Comments (To be completed by Purchasing):

In review of the MWBE Compliance for RFP 20-016 Manhole Inspection Services, there were no participation goals achieved on this project. Hydrostructures, P.A. will be utilizing their own workforce to perform this particular service on the project.

MWBE Compliance reviewed by the Durham County MWBE Management Team:

Rick Greene
Rick Greene, Asst. Procurement Manager

5/11/20
Date

**DURHAM COUNTY
NORTH CAROLINA**



REQUEST FOR PROPOSALS

**MANHOLE INSPECTION SERVICES
FOR DURHAM COUNTY UTILITIES DIVISION**

RFP NO. 20-016

**Proposals Due: March 3, 2020
2:00 P.M., Eastern Time**

Manhole Inspection Services for Durham County Utilities Division

RFP No. 20-016

BID SCHEDULE

(Note: The below dates are subject to change)

Advertisement Date	February 2, 2020
Pre-Proposal Conference Date	February 12, 2020 at 10:00 A.M, Eastern Time, Durham County Administration Building II, 201 East Main Street, Conference Room 462 , Durham, NC 27701
Last Question Date	February 19, 2020 at 3:00 P.M., Eastern Time
Proposal Due Date	March 3, 2020 at 2:00 P.M., Eastern Time



REQUEST FOR PROPOSALS

Manhole Inspection Services for Durham County Utilities Division

RFP No. 20-016

ISSUE DATE: February 2, 2020

ISSUING DEPARTMENT: County of Durham Purchasing Division of Finance
7th Floor / 201 East Main Street
Durham, NC 27701

Proposals will be received until 2:00 P.M., Eastern Time on March 3, 2020. The purpose and intent of the Request for Proposals (RFP) is to solicit proposals from qualified firms to provide Manhole Inspection Services for Durham County Utilities Division.

All inquiries concerning the Scope of Services, Proposal Submission Requirements or Procurement Procedures should be directed to:

Hilda W. Williams, Senior Procurement Specialist

Purchasing Division

Email: purchasinggroup@dconc.gov

Telephone: (919) 560-0054

Proposals shall be mailed and/or hand delivered to the Issuing Department shown above, and the envelope shall bear the name and number of this Request for Proposals (RFP). It is the sole responsibility of the Proposer to ensure that his/her Proposal reaches the Purchasing Division by the designated date and hour indicated above.

In compliance with this Request for Proposals and to all the terms and conditions imposed herein, the undersigned offers and agrees to furnish the goods and services described in accordance with the attached signed proposal.

Firm Name: _____

Date: _____

Address: _____

By: _____
(Name Typed/Printed)

Phone: _____

(Signature in Ink)