

SPECIAL INSTRUCTIONS TO BIDDERS REGARDING COMPLIANCE WITH THE CITY OF WINSTON-SALEM'S AND/OR CITY/COUNTY UTILITY COMMISSION'S MINORITY AND WOMEN BUSINESS ENTERPRISE (M/WBE) PROGRAM

Policy

It is the policy of the City of Winston-Salem and/or the City/County Utility Commission (an agency of the City of Winston-Salem), that minority and women owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with City and/or Commission funds.

Obligation of Bidders

Bidders agree to use their best efforts to comply with all the terms and conditions of the City of Winston-Salem's and/or City/County Utility Commission's Minority and Women Business Enterprise (M/WBE) Program, as the same may be amended from time to time, through award of subcontracts to minority and women owned business enterprises and utilization of minority and women owned business enterprise suppliers to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority and women business" shall mean a company that is 51% or more owned and controlled by minority group members or women. For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, American Indians, Female Americans, Asian Americans, socially and economically disadvantaged individuals, and Disabled. The law defines socially disadvantaged individuals as "those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities". (15 U.S.C., 637 (5)) Economically disadvantaged individuals "are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business that are not socially disadvantaged". (15 U.S.C., 637 (6)) Successful Bidder will be expected to provide minority participation not less than the expected goals for this project shown herein. Bidders that bid as prime contractor must utilize their best efforts to meet participation goals through award of subcontracts to minority and women business enterprises.

It is mandatory that the Identification of Minority Participation form and Affidavit "A" Listing of Good Faith Efforts be properly completed as defined in the document specifications and submitted with the Bid (unless the prime contractor intends to perform 100% of the work with Own Workforce and properly executes Affidavit B).

Pursuant to N.C.G.S. 143-128.2(c) The Identification of Minority Participation form must include, at a minimum, the names of all minority contractors who will be construction subcontractors, vendors, or suppliers on this project. Additional contact information such as business addresses, phone numbers, work types, and minority categories is important and useful.

In accordance with N.C.G.S. 143-128.2(c) Bidder shall identify on its Bid the M/WBE businesses to be used on this project and pursuant to subsection (f) of this statute provide the total dollar value of the Bid that will be performed by the minority businesses. This information shall be listed on the Identification of Minority Participation form. Failure to list, at a minimum, the minority firm business name and the total dollar value of M/WBE firms contracting will render the Bid as non-responsive and will not be considered for award. Beginning September 3, 2018 all firms must be certified with the State of N.C. HUB Office at the time the bid is submitted.

The Affidavit A, *Listing of Good Faith Efforts*, must be properly executed with the Bid providing evidence that the prime contractor has complied with the good faith efforts measures before bidding to solicit M/WBEs and to meet the goals (unless the prime contractor intends to perform 100% of the work with Own Workforce and properly executes Affidavit B)

The Affidavit B Intent to Perform Contract with Own Workforce form must be executed with the Bid only if the prime contractor intends to perform 100% of the work required for the contract without the use of subcontractors.

At the project bid opening, the M/WBE goals for each bid will be recorded. The minority and women business goals must be met separately and not as a combined total. Successful Bidder must submit Affidavit C or D depending on its adherence to the goals.

M/WBE Instructions to Bidders

Successful Bidder who has met or surpassed the expected goals must provide Affidavit C Portion of Work to be performed by Minority Firms within twenty-four hours (24) after being notified by City Staff

Successful Bidder who does not meet the expected goals must submit Affidavit D Good Faith Efforts within twenty-four hours (24) after being notified by City Staff. Bidder shall satisfy the City and/or Commission that they have made a good faith effort to solicit M/WBE participation. Good faith efforts can be demonstrated using, among other factors, the following:

- (a) Attending pre-solicitation or pre-bid meetings that are scheduled by the City to inform M/WBE firms of contracting, subcontracting, and supply opportunities.
- (b) Advertising in general circulation, trade association, or minority-focus media concerning subcontracting opportunities.
- (c) Providing written notice, to a reasonable number of specific M/WBE firms that their interest in the contract is being solicited, at least 10 days before bids are due, to allow M/WBE firms time to participate.
- (d) Following up initial solicitation of interest by contacting M/WBE firms to determine with certainty whether the M/WBE firms are interested.
- (e) Identifying and selecting portions of the work to be performed by M/WBE firms in order to increase the likelihood of M/WBE participation (including where appropriate, breaking down contracts into economically feasible units to facilitate M/WBE participation).
- (f) Providing interested M/WBE firms with equal access to plans, specifications, and requirements of the contract.
- (g) Negotiating fairly with interested M/WBE firms, not rejecting M/WBE firms as unqualified without sound reasons based on a thorough investigation of their capabilities.
- (h) Using the services of the City of Winston-Salem's M/WBE office; available minority community organizations; minority contractors' groups; local, state, and federal minority business offices; and other organizations that provide assistance in the recruitment and placement of M/WBE firms.
- (i) Assisting interested M/WBE firms in need of equipment, loan capital, lines of credit or joint pay agreements to secure loans, supplies or letters of credit, including waiving credit that is ordinarily required.
- (j) Assisting interested M/WBE firms in obtaining bonding, insurance, or providing alternatives to bonding or insurance for subcontractors.
- (k) Negotiating joint venture and partnership arrangements with minority businesses to increase the opportunities for minority participation when possible.
- (l) Provide for quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands.

The M/WBE review committee shall evaluate the good faith efforts of each bidder and determine if the requirements of this program have been met. If successful Bidder does not agree to at least the expected goals for the project, the M/WBE Committee shall review the good faith efforts and make a recommendation to the City Council and/or Commission. Any bidder not meeting the good faith efforts evaluation will be found non-responsive and their bid shall not be considered.

M/WBE Instructions to Bidders

The City and/or Commission may, for construction projects exceeding \$300,000, reject non-responsive bids and award a contract to the lowest responsible bidder; responsible bidder meaning a bidder who meets the expected goals for the project or who documents to the City's and/or Commission's satisfaction, that good faith efforts were made.

Actual participation achieved or offered shall not be determinative on the issue of good faith efforts. Further, if other factors, other than factors (a) through (l) previously listed, are considered, they may be used to credit the contractor's good faith efforts, but not to discredit them.

In accordance with the Minority Utilization Commitment Form "Affidavit E", no subcontractor who is identified and listed on Affidavit E may be replaced with a different subcontractor unless: A) the subcontractor's bid is later determined by the contractor to be non-responsible or non-responsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or B) With the approval of the City of Winston-Salem M/WBE office for the good cause demonstrated. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the City of Winston-Salem M/WBE office of its good faith efforts; including the MWBE Replacement Request Form.

During the course of the contract Successful Bidder will be required to submit *M/WBE Documentation for Contract Payments, Affidavit F*, with each monthly pay request. Final payment will be withheld until the contractor completes and submits an *Affidavit of Payment to M/WBE Subcontractors*.

The City, however, at its discretion may require additional periodic reports. Final payment will be withheld until it has been determined that the goal percentages for M/WBE participation, previously agreed to by the successful bidder, have been confirmed by the City and/or Commission.

Goals for this project are as follows:

- **Minority Business Enterprise (MBE) MBE - TBD%**
- **Women Business Enterprise (WBE) WBE - TBD%**

Failure to achieve these goals, or make a good faith effort to do so, may result in serious consequences, up to and including, disqualification from bidding for future construction contracts.

Changes in the Work

When the City/Engineer makes changes that result in the reduction or elimination of work to be performed by a committed M/WBE subcontractor, the Contractor will not be required to seek additional participation. When the City/Engineer makes changes that result in additional work to be performed by an M/WBE subcontractor based upon the Contractor's commitment, the M/WBE shall participate in the additional work to the same extent as the M/WBE participated in the original contract work.

When the City/Engineer makes changes that result in extra work, which has more than a minimal impact on the contract amount, the Contractor shall seek additional participation by M/WBE's unless otherwise approved by M/WBE staff.

When the City/Engineer makes changes that result in an alteration of plans or details of construction, and a portion or all of the work had been expected to be performed by a committed M/WBE, the Contractor shall seek participation by M/WBE's unless otherwise approved by the M/WBE staff.

When the Contractor requests changes in the work that result in the reduction or elimination of work that the Contractor committed to be performed by an M/WBE, the Contractor shall seek additional participation by M/WBE's equal to the reduced M/WBE participation caused by the changes.

NOTE: All M/WBE firms must be certified by the State of North Carolina Office for Historically Underutilized Businesses (HUB) prior to completion of project.

M/WBE Instructions to Bidders

Please review the following sample *Invitation to Bid* letter. As this letter is the first vehicle for seeking possible M/WBE subcontractors to work on the expected project, it should include information required by the City's and/or Commission's M/WBE plan to prove a **Good Faith Effort**.

A well written letter would:

- (a) be sent to a reasonable number of specific M/WBE firms to inform them that their interest in the contract is being solicited. The notice should be dated and sent at least 10 days before bids are due, to allow the M/WBE firms time to participate. Solicitations for quotes should go to at least three minority firms from the M/WBE directory provided by the City of Winston-Salem M/WBE Office. If three or more firms are shown on the source list, each solicitation shall include:
 - a specific description of the work to be subcontracted,
 - the location where bid documents can be reviewed,
 - the representative of the Prime Bidder to contact, and
 - a location, date and time when quotes must be received.
- (b) identify and select portions of the Work to be performed by M/WBE firms in order to increase the likelihood of M/WBE participation (including where appropriate, breaking down contracts into economically feasible units to facilitate M/WBE participation).
- (c) include a location where M/WBE firms have equal access to specifications and plans, and requirements of the contract.
- (d) include a statement that the soliciting company plans to negotiate fairly with interested M/WBE firms and will not reject any M/WBE firms as unqualified without sound reason based on a thorough investigation of their capabilities. The letter would also state that M/WBE firms not selected for the work could contact the soliciting company for information why they were not selected.
- (e) include a statement if the soliciting company will provide or assist interested M/WBE firms in locating assistance in obtaining bonding, loan capital, lines of credit, insurance, or joint pay agreements to secure loans/supplies required by the Successful Bidder.
- (f) include a statement if the soliciting company will negotiate joint venture and partnership arrangements with M/WBE firms when possible.
- (g) include a statement outlining the soliciting company's quick pay agreement and policies that enable minority contractors and suppliers to meet cash flow demands.

Please review how the previously mentioned efforts are incorporated into the following **sample of a “Solicitation Letter”**. Refer to the notes in the column in the left margin which are not part of the letter proper.

Letterhead

GOOD HAMMER CONSTRUCTION COMPANY
1000 Building Lane
Winston-Salem, North Carolina 27101

Date of notice.

September 1, 2016

****SAMPLE LETTER****

Subcontractor

Jones Plumbing Contracting, Inc.
Robert A. Jones
Company Address
City, State and Zip Code
(336) 765-0000

Which contract?

Re:

Each letter should include the specific scope of work solicited.

Dear Mr. Jones

Good Hammer Construction Co. is requesting bids from certified M/WBE firms on the above referenced project. We are soliciting subcontractor bids for **(Name the specific area sub bids are requested)** for this project.

Where are the documents?

Bid documents and plans may be reviewed in our office. Please contact me at (336) 777-7777, if you would like an appointment to review the documents.

When & where are bids due.

Quotes must be received in our office by **(list the date and time bids are due)**.

Negotiation available?

Good Hammer Construction Company is willing to review any responsible quote and will negotiate terms, if appropriate. We will notify your firm if your bid is accepted for this project. Please contact me if you have not heard from us by **(provide a date)** and I will inform you of the status of your bid.

Assistance offered.

If you need assistance with obtaining bonding, loan capital, lines of credit, insurance or joint pay agreements, please contact us and we will review your needs and direct you to available agencies for assistance.

Joint venture or partnership?

Good Hammer Construction Company will look at the possibility of a joint venture or partnership arrangement, if appropriate.

Quick pay policy?

Good Hammer Construction Company pays twice monthly on submission of qualified invoice.

Sincerely,

Contact person?

John Jones
Project Estimator

*****MUST BE SUBMITTED WITH BID*****

(unless the prime contractor intends to perform 100% of the work with Own Workforce)

IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION

(Name of Project)

I,

(Name of Bidder)

do hereby certify that on this project, we will use the following M/WBE firms as construction subcontractors, vendors, suppliers, or providers of professional services.

In accordance with N.C.G.S. 143-128.2(c) Bidder shall identify on its Bid the M/WBE businesses to be used on this project **and** pursuant to subsection (f) of this statute provide the total dollar value of the bid that will be performed by the minority businesses. **Failure to list, at a minimum, the minority firm business name and the total dollar value of M/WBE firms contracting will render your Bid as non-responsive and will not be considered for award.** If Bidder has no minority participation, they shall indicate this on the table below by entering the word "None" or the number "0." **Blank forms will not be deemed to represent zero participation.**

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Dollar Value

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

The total dollar value of MBE firms contracting will be	\$	_____
The total percentage of MBE firms contracting will be		_____%
The total dollar value of WBE firms contracting will be	\$	_____
The total percentage of WBE firms contracting will be		_____%

*****MUST BE SUBMITTED WITH BID*****

(unless the prime contractor intends to perform 100% of the work with Own Workforce)

AFFIDAVIT “A”

LISTING OF GOOD FAITH EFFORTS

(Name of Project)

Affidavit of:

(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

NOTE: A contractor must accumulate at least **115 points** to demonstrate a “**Good Faith Effort**” was made. Partial points may be awarded when the complete requirement of an item is not met.

✓	Description	Points	Awarded Points
_____	(a) Attending pre-solicitation or pre-bid meetings that are scheduled by the City to inform M/WBE firms of contracting, subcontracting, and supply opportunities.	10	_____
_____	(b) Advertising in general circulation, trade association, or minority-focus media concerning subcontracting opportunities. Note: A contractor must advertise in all three mediums to receive full value for this item.	15	_____
_____	(c) Providing written notice to a reasonable number of specific M/WBE firms that their interest in the contract is being solicited, at least 10 days before bids are due to allow M/WBE firms time to participate.	15	_____
_____	(d) Following up initial solicitation of interest by contacting M/WBE firms to determine with certainty whether the M/WBE firms are interested.	10	_____
_____	(e) Identifying and selecting portions of the work to be performed by M/WBE firms in order to increase the likelihood of M/WBE participation (including where appropriate, breaking down contracts into economically feasible units to facilitate M/WBE participation).	15	_____
_____	(f) Providing interested M/WBE firms with equal access to specifications, plans, and requirements of the contract.	10	_____
_____	(g) Negotiating fairly with interested M/WBE firms, not rejecting M/WBE as unqualified without sound reasons based on a thorough investigation of their capabilities.	25	_____
_____	(h) Using the services of the City of Winston-Salem's M/WBE office; available minority community organizations; minority contractors' groups; local, state, and federal minority business offices; and other organizations that provide assistance in the recruitment and placement of M/WBE firms. Note: A contractor must utilize at least two agencies to receive full value.	10	_____

AFFIDAVIT "A"

LISTING OF GOOD FAITH EFFORTS (continued)

✓	Description	Points	Awarded Points
_____	(i) Assisting interested M/WBE firms in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Note: A contractor can receive up to 10 points for offering; 10 points for implementation.	20	_____
_____	(j) Providing assistance in obtaining required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. Note: A contractor can receive up to 10 points for offering; 15 points for implementation.	25	_____
_____	(k) Negotiating joint venture or partnership arrangements with minority businesses to increase opportunities for minority participation when possible.	10	_____
_____	(l) Provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands. Note: A contractor can receive up to 5 points for offering; 10 points for implementation.	15	_____
Total Points		180	_____

Please refer to the sample solicitation letter following page 4 of the instructions which outlines information Bidders should relay to all subcontractors when soliciting bids.

In accordance with NCGS 143-128.2(d), the undersigned will enter into a formal agreement with the firms listed in the identification of Minority Business Participation schedule conditional upon execution of a contract with the Owner. Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that they have read the terms of the minority business commitment and is authorized to bind Bidder to the commitment herein set forth.

Date: _____ Name of Officer: _____
 Signature _____
 Title _____

State of North Carolina, County of _____ subscribed and sworn before
 me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

SEAL

***** MUST BE SUBMITTED WITH BID*****

SUBCONTRACTOR/SUPPLIER UTILIZATION FORM

List below all non-M/WBE subcontractors and suppliers that you intend to use on this contract. NOTE: you will only receive credit for certified minority or woman-owned firms.

Name of Project: _____

Name of Consultant: _____

Firm Name & Phone Number	City-State	Type of Work	Dollar Value
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

MUST BE SUBMITTED WITH BID, IF APPLICABLE

AFFIDAVIT "B"

INTENT TO PERFORM CONTRACT WITH OWN WORKFORCE

County of _____

Affidavit of _____
(Name of Bidder)

I hereby certify it is our intent to perform 100% of the work required for the contract:.

(Name of Project)

In making this certification, Bidder states:

- that the Bidder does not customarily subcontract elements of this type project,
- normally performs, has the capability to perform, and will perform all elements of the work on this project with their own current work force; and,
- agrees to provide any additional information or documentation requested by Owner in support of the above statement.

The undersigned hereby certifies that they have read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Officer: _____
Signature _____
Title _____

State of North Carolina, County of _____ subscribed and sworn before
me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

SEAL

In the event Bidder does not self-perform 100% of the work, the contract will be subject to the M/WBE goals originally established for this project, as well as, good faith efforts and documentation requirements of this program.

***** (NOTE: THIS FORM IS NOT TO BE EXECUTED WITH THE BID) *****

AFFIDAVIT "C"

PORTION OF WORK TO BE PERFORMED BY MINORITY FIRMS

Project: _____

If the portion of work to be executed by minority businesses as defined in GS 143-128(g) is equal to or greater than the stated goals of Bidder's total contract price, then Bidder must complete this affidavit. This affidavit shall be provided by the Successful Bidder within **24 hours** after notification of being the low bidder.

Affidavit of _____ I hereby do certify that on the
(Name of Bidder)

(Name of Project)

Project ID # _____ Amount of Bid \$ _____

I will expend a minimum of _____ % with minority businesses and _____ % with women owned businesses of the total dollar amount of the contract. Minority business will be employed as construction subcontractors, vendors, suppliers, or providers of professional services. Such work will be subcontracted to the following firms listed below: (Attach additional sheets if required)

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Dollar Value

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

AFFIDAVIT "C"

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PORTION OF WORK TO BE PERFORMED BY MINORITY FIRMS (continued)

Pursuant to GS 143-128(d), the undersigned will enter into a formal agreement with minority firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he/she has read this certification and is authorized to bind Bidder to the commitments herein contained.

Date: _____ Name of Officer: _____
Signature _____
Title _____

State of North Carolina, County of _____ subscribed and sworn before
me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

SEAL

AFFIDAVIT "D"

GOOD FAITH EFFORTS

Project: _____

If the established goal for participation by minority businesses is not achieved, Bidder must provide the following documentation to the Owner of his **Good Faith Efforts** within **24 hours** after notification of being Successful Bidder.

Affidavit of _____
(Name of Bidder)

I hereby do certify the attached documentation as true and accurate representation of my good faith efforts. (Attach additional sheets if required).

Minority Firm Name Phone Number	City- State	Minority Category*	Type of Work	Dollar Value
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Documentation of Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation include, but are not limited to, the following evidence.

✓	Description	Points	Awarded Points
_____	(a) Did a representative of your company attend the pre-solicitation or pre-bid meeting scheduled by the City to inform M/WBE firms of contracting, subcontracting, and supply opportunities and to review contractor requirements of complying with the program?	10	_____
_____	(b) Did your company advertise in general circulation, trade association, or minority focus media concerning subcontracting opportunities? NOTE: A contractor must advertise in all three mediums to receive full value for this item).	15	_____
_____	(c) Did your company provide written notice to a reasonable number of specific M/WBE firms that their interest in the contract is being solicited, at least 10 days before bids are due to allow M/WBE firms time to participate? Please provide a copy of the solicitations for quotes sent to at least 3 minority firms from the source list provided by the owner for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall include a specific description of the work to be subcontracted, location where bid documents can be reviewed, name of representative of the prime bidder to contact, and location, date, and time.	15	_____

AFFIDAVIT “D”

GOOD FAITH EFFORTS (continued)

✓	Description	Points	Awarded Points
_____	(d) Did you follow up initial solicitation of interest by contacting M/WBE firms to determine with certainty whether the M/WBE firms are interested? Please include telephone log of follow up calls you made to confirm interest.	10	_____
_____	(e) How did your company identify and select portions of the work to be performed by M/WBE firms in order to increase the likelihood of M/WBE participation (including where appropriate, breaking down contracts into economically feasible units to facilitate M/WBE participation)? Please provide a copy of documentation where this information was included.	15	_____
_____	(f) Explain how you provided interested M/WBE firms with equal access to specifications, plans, and requirements of the contract.	10	_____
_____	(g) How have you negotiated fairly with interested M/WBE firms, not rejecting M/WBE as unqualified without sound reasons based on a thorough investigation of their capabilities? Copy of documentation or response received from each firm responding to the solicitation must be submitted, along with Subcontractor Quote Comparison Form. For subcontracts where the minority firm is not the lowest bidder, please provide copies of quotes received from all firms submitting quotes for that particular subcontract. Please provide documentation detailing reasons for rejecting any M/WBE firm’s bid as unqualified.	25	_____
_____	(h) What services were used from the City of Winston-Salem's M/WBE office; available minority community organizations; minority contractors' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of M/WBE firms? Please provide a copy of this documentation. Note: A contractor must utilize at least two agencies to receive full value.	10	_____
_____	(i) How did your company provide assistance to an otherwise qualified minority firms in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required? Did your company assist minority firms in obtaining the same unit pricing with the bidder’s suppliers in order to help minority firms in establishing credit? Please provide copy of any documentation (could be included in Solicitation Letter), and/or evidence of implementation from previous projects in the past 5 years advising M/WBE firms what type assistance was available. Note: A contractor can receive up to 10 points for offering; 10 points for implementation.	20	_____

AFFIDAVIT "D"

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GOOD FAITH EFFORTS (continued)

✓	Description	Points	Awarded Points
_____	(j) How did your company provide assistance in obtaining required bonding or insurance or providing alternatives to bonding or insurance for subcontractors? Provide a copy of any documentation (could be included in Solicitation Letter), and/or evidence of implementation from previous projects in the past 5 years advising M/WBE firms what type assistance was available. Note: A contractor can receive up to 10 points for offering; 15 points for implementation.	25	_____
_____	(k) Did your company negotiate a joint venture or partnership arrangement with minority firms to increase opportunities for minority participation when possible? Please provide copy of any documentation (could be included in Solicitation Letter) advising M/WBE firms what type assistance was available or outlining any other steps taken to fulfill this requirement.	10	_____
_____	(l) Did your company provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands? What procedures were initiated to fulfill this requirement and how were the M/WBE firms informed of this assistance? Evidence of implementation from previous projects in the past 5 years can be submitted. Note: A contractor can receive up to 5 points for offering; 10 points for implementation.	15	_____
Total Points		180	_____

NOTE: A contractor must accumulate at least **115 points** to demonstrate a “**Good Faith Effort**” was made. Partial points may be awarded when the complete requirement of an item is not met. Failure to provide the documentation as listed in these provisions may result in rejection of the Bid and award go to the next lowest responsible and responsive Bidder.

Date: _____ Name of Officer: _____
 Signature _____
 Title _____

State of North Carolina, County of _____ subscribed and sworn before me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

SEAL

Subcontractor Quote Comparison Instructions

- (a) Copy of documentation or response received from each M/WBE firm responding to the solicitation must be submitted in addition to completion of this spreadsheet.
- (b) For subcontracts where the M/WBE is not the lowest bidder, please provide copies of quotes received from all firms submitting quotes for that particular subcontract.
- (c) For each work type, please indicate which subcontractor was used in your quote. Please highlight or bold the comment which shows usage such as: Used for M/WBE goal or quote used in bid.
- (d) If there are no M/WBE's listed or quoted for a given work type, please indicate as follows: "No quotes received from M/WBE's." You may place this comment in the comment column across from the work type label as shown in the example.
- (e) Please list subcontractors and their respective quotes in ascending order; from low bid to high bid. Please see examples.
- (f) If you choose a non-M/WBE sub-contractor over an M/WBE subcontractor, please indicate the reason(s) why. If cost is the reason, explain that and give the dollar savings. If there is a history of poor performance or other issues, please provide detailed reasons for rejecting any M/WBE as unqualified in the comments column.
- (g) If there is a work type for which you were anticipating to receive quotes, but received none, please indicate such.
- (h) Please indicate the status of the M/WBE in the "MBE/WBE Status" column. Leave blank if the firm is not an M/WBE.

NOTE: Failure to provide the information requested impacts the committee's ability to determine if a Good Faith Effort was made, and could directly impact the City/County's ability to award the contract.

Subcontractor Quote Comparison Form

***To be submitted with Affidavit D “Good Faith Efforts”**

Name of Bidder: _____

Project: _____

Subcontractor and Work Type	MBE/WBE Status	Quote	Comments
Hauling Services			
WS Trucking	MBE	\$16,244.00	Used for MWBE goal
ABC Construction		\$18,879.00	
Painting			
WS Paint Partners		\$6,205.87	Actual low bid. Chose M/WBE to help reach goal. M/WBE was higher by \$1078.
General Paint Co.	WBE	\$7,284.03	Used for MWBE goal.
Boss Painting Incorporated	WBE	\$9,253.23	
HVAC			
Marshall HVAC		\$9,025.65	Quote used in bid.
Hanson Heating and Air	MBE	\$14,257.53	M/WBE not used due to cost savings of over \$5200. The M/WBE was 58% higher.
Signage			
WS Signs	MBE	\$2,700.00	Actual low bid. History of poor performance. Not reliable.
XYZ Signs	WBE	\$2,828.86	Used for MWBE goal
United International. LLC		\$3,045.25	
SILT FENCE			
WS Environmental, Inc.	WBE	\$2,325.00	Used for MWBE goal
Piedmont Environmental	MBE	\$2,875.00	
PAVEMENT MARKING			
Traffic Marking Company		\$1,514.44	No quotes received from MWBEs.
Evans Pavement Marking, Inc.		\$2,680.80	

AFFIDAVIT "E"

MINORITY UTILIZATION COMMITMENT FORM

Project: _____

Affidavit of: _____
(Name of Bidder)

Within thirty (30) days after award of contract, Contractor shall file Affidavit E identifying all M/WBE subcontractors for use on this project. No subcontractor who is identified and listed on this form may be replaced, substituted, or supplemented; nor can their scope of work be modified to include a different subcontractor unless:

- (a) Subcontractor's bid is later determined by the Contractor to be non-responsible or non-responsive, or the listed Subcontractor refuses to enter into a contract for the complete performance of the bid work, or
- (b) With the approval of the City of Winston-Salem M/WBE Office for good cause demonstrated. **Good Faith Efforts** as set forth in the Section SIB-1, Special Instructions to Bidders shall apply to the selection of a substitute Subcontractor. Prior to substituting a Subcontractor, the Contractor shall identify the substitute Subcontractor and inform the City of Winston-Salem M/WBE Office of its good faith efforts.

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Dollar Value

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Failure to provide the documentation as listed in these provisions may result in rejection of the Bid and award go to the next lowest responsible and responsive bidder.

Date: _____ Name of Officer: _____

 Signature _____

 Title _____

State of North Carolina, County of _____ subscribed and sworn before
 me this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____
 SEAL

MWBE Replacement Request Form

It is the policy of Winston-Salem and the City/County Utilities Commission (an agency of the City of Winston-Salem), that minority and women owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with the City and/or Commission funds.

In accordance with the Minority Utilization Commitment Form "Affidavit E", no subcontractor who is identified and listed on Affidavit E may be replaced, substituted, or supplemented; nor can their scope of work be modified to include a different subcontractor unless: A) the subcontractor's bid is later determined by the contractor to be non-responsible or non-responsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or

B) With the approval of the City of Winston-Salem M/WBE office, good cause has been demonstrated. Prior to substituting a subcontractor, the Contractor shall identify the substitute subcontractor and inform the City of Winston-Salem M/WBE office of its good faith efforts; including the MWBE Replacement Request Form.

In order to meet the terms stated above, an M/WBE Replacement Request Form must be completed. Replacement of an MWBE without written approval from the City of Winston-Salem MWBE office is a violation of contract provisions and may result in the contractor being disqualified from bidding on future City and/or Commission projects.

If a committed MWBE subcontractor is terminated for a good cause, the Contractor will make a Good Faith Effort to find another M/WBE subcontractor to substitute for the terminated M/WBE. This Good Faith Effort shall be directed at finding another M/WBE to perform at least the same amount of work under the contract as the M/WBE that was terminated, to the extent needed to meet the contract goal established for the project.

Replacement M/WBE: _____

Amount of Subcontract: _____

Work to be Performed: _____

New Committed M/WBE Signature: _____ **Date:** _____

By signing this document, the Contractor, MWBE, and City of Winston-Salem M/WBE office acknowledges that the 5 days to respond was given, and concurs with the process of replacing the named M/WBE subcontractor.

Original MWBE Signature Date

Prime Contractor Signature Date

MWBE Staff Signature Date

INSTRUCTIONS FOR SUBMITTAL OF M/WBE REPLACEMENT REQUEST FORM

IN ADDITION TO SUBMITTING THIS FORM, THE CONTRACTOR MUST ENSURE THAT THE FOLLOWING STEPS ARE SATISFIED.

1. Prior to starting the replacement process, the prime contractor is responsible for coordinating with the M/WBE subcontractor to see if they are willing and able to perform the work as indicated in their contract. If the Contractor notices a reoccurring issue with an M/WBE subcontractor, the Contractor shall notify the City of Winston-Salem M/WBE staff and keep them abreast of the issues.

2. If the M/WBE subcontractor cannot perform the work or if the Contractor shows good cause for replacement, M/WBE staff will coordinate with the Contractor to begin the M/WBE replacement process. M/WBE staff will coordinate with other City departments as appropriate.

(Examples of good cause include: M/WBE fails or refuses to execute a written contract; M/WBE fails or refuses to perform the work of its subcontract consistent with normal industry standards; M/WBE fails to meet reasonable, nondiscriminatory bond requirements; M/WBE becomes bankrupt, insolvent, or exhibits credit unworthiness; M/WBE is ineligible to work because of suspension and debarment proceedings; M/WBE voluntarily withdraws from the project and provides written notice; M/WBE owner dies or becomes disabled and is unable to complete its work; or other documented good cause that compels termination. Good cause does not exist where the Contractor terminates a committed M/WBE for failure or refusal to perform the work of the subcontract results from bad faith or discriminatory action of the prime contractor.)

3. Before requesting the City of Winston-Salem's consent for the proposed replacement, substitution, or supplementation of an M/WBE, the Contractor shall give written notice of the proposal, including the reason for replacement, substitution, or supplementation to the M/WBE firm with a copy to the City of Winston-Salem M/WBE staff. The M/WBE shall be given **five days** to respond unless the five day requirement needs to be reduced, due to public necessity (e.g. safety).

4. After the notice period has passed, the M/WBE staff will ensure the Contractor has submitted all supporting documentation for the M/WBE replacement. Letters, phone logs, emails or any other correspondence between the Contractor, the M/WBE subcontractor, and/or City staff will be considered supporting documentation. This documentation must provide valid reason(s) for replacement as well as the opportunity to correct the issue. Contractors cannot replace for convenience or perform the work with its own forces or those of an affiliate.

5. Once the Contractor is given approval by the City of Winston-Salem M/WBE staff to replace an M/WBE subcontractor, M/WBE staff will send notification to the City project manager and the City/County Purchasing Department for informational purposes.

6. The Prime Contractor shall be made aware that he/she needs to make a Good Faith Effort to replace an M/WBE with another M/WBE. Good Faith Efforts shall be made to replace a MBE with a MBE, and a WBE with a WBE.

7. Signature lines on form: Ideally, the form should contain the signature of the original M/WBE Subcontractor being replaced. However, if this is not possible (i.e. the M/WBE will not sign), the documentation supporting the decision and acknowledgement of the reasons for replacement of the M/WBE subcontractor should be attached. The form shall also be signed by the replacement M/WBE to show their participation on the project as the new committed M/WBE, along with a revised Affidavit E.

**THIS DOCUMENT MUST BE SUBMITTED
WITH EACH PAY REQUEST AND FINAL PAYMENT**

AFFIDAVIT "F"

MINORITY DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor/Architect: _____

Address & Phone Number: _____

Project Name: _____

Pay Application Number: _____ Period: _____

The following is a list of payments to be made to minority business contractors on this project for the above mentioned period.

Minority Firm Name and Address	Minority Category*	Amount Paid For This Period	Amount Paid To Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Date: _____ Approved/Certified by _____

In addition to the list of payments above, I hereby certify that no subcontractor who was identified and listed on Affidavit E- Minority Utilization Commitment Form, has been replaced without approval from the City of Winston-Salem's M/WBE Division.

Note: Additional M/WBE's can be added for new work only. In this case, please notify M/WBE staff.

Name: _____

Title: _____

Signature _____

The above mentioned project is approximately _____ percent complete.

TO BE COMPLETED AND SUBMITTED PRIOR TO FINAL PAYMENT BEING MADE

**AFFIDAVIT OF PAYMENT TO
M/WBE SUBCONTRACTORS**

The undersigned certifies that _____
(Name of Bidder)

has made payment to all M/WBE subcontractors listed below in accordance with the contract requirements for construction of _____
(Name of Project)

Your contractual requirement for this project is: _____ % MBE and _____ % WBE.

Subcontractor	Address	Amount Paid
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Attached another sheet if needed)

Authorized Signature _____

On this _____ day of _____, 20____, _____
(Name of Authorized Person)

appeared before me, being personally known, being duly sworn, did execute the foregoing affidavit, and did so state that he/she was properly authorized by _____
to execute the affidavit and did so on his/her free act and deed. (Name of Bidder)

Notary Public _____ My commission expires _____

SEAL

TO BE COMPLETED BY CITY

M/WBE SPENDING

Project: _____

Construction Cost at Bid: \$ _____

Contractual Requirement: MBE _____% WBE _____%

Subcontract Spending: MBE \$ _____ %

WBE \$ _____ %

Verified this _____ day of _____, 20____ By: _____
M/WBE Staff