

**Special Instructions  
to Bidders Regarding  
Compliance with  
The City of Greensboro  
Minority and Women Business  
Enterprise (M/WBE) Program**

**M/WBE Program  
Amended: October 15, 2013  
Effective: January 1, 2014**



**Greensboro City Council  
Melvin Municipal Office Building  
Greensboro, North Carolina 27402**

**CONTENTS**

		<b>Page</b>
I.	Declaration of Policy Statement	3
II.	Definitions	4
III.	Program Compliance Responsibilities	8
IV.	M/WBE Participation Requirements	10
V.	Pre-Bid Conference	11
VI.	Calculation of M/WBE Participation in Contracts Awarded	11
VII.	Procedures to Ensure that Prime Contractors Make Good Faith Efforts to Provide Equal Opportunity to M/WBEs in City Construction Programs	12
VIII.	Request for Waiver of M/WBE Program Elements	20
IX.	Program Compliance and Sanctions for Failure to Adequately Document Good Faith Efforts	20
X.	M/WBE Good Faith Efforts / Waiver Review Appeal Process	23

<b>Forms – Attached Affidavits</b>		
	Affidavit A: Listing of Good Faith Efforts – Subcontracting & Supplies	24
	Affidavit B: Certification of Good Faith Efforts	25
	Affidavit C: Subcontractor Utilization Commitment	29
	Affidavit D1/ D2: Letter of Intent to Provide Materials(D1) and Supplies (D2)	30-31
	Affidavit E: Statement of Intent to Perform Work without Subcontracting	32
	Affidavit F: Statement of Subcontract Opportunities offered	33
	Affidavit G: Subcontractor M/WBE Utilization Report	34
	Affidavit H: Waiver Request of Compliance with MWBE Program Element	35

Pursuant to Chapter 2, Article IV, Division 2, Section 2-117, of the Greensboro Code of Ordinances the Minority/Women Business Enterprise program plan was adopted to promote the economic inclusion and full equitable utilization and development of firms that engage in business with the City in the Greensboro Marketplace

## **I. STATEMENT OF POLICY**

It is the policy of the City not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, Subcontractors or commercial customers on the basis of age, color, biological sex, disability, national origin, race, religion, or any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the Relevant Marketplace.

## **COMMERCIAL NONDISCRIMINATION POLICY**

As a condition of entering into this agreement, the company represents and warrants that it will comply with the City's Commercial Nondiscrimination Policy, as described under Section V. A. 1. of the M/WBE Program Plan as stated above. As part of such compliance, the company shall not discriminate on the basis of race, color, religion, national origin, biological sex, age, or disability nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for Subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the City's Relevant Marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

## II. DEFINITIONS

**Affiliate** – Two entities are affiliates of one another when: (a) one controls or has the power to control the other, (b) a third party controls or has the power to control both, or (c) there is a significant relationship between the two entities based on common ownership, management or employees, shared equipment, assets, or facilities, physical proximity, percentage of revenue derived from the other entity, or loans, leases, contributions, and contracts.

**Annual Aspirational Goal** – a non-mandatory annual aspirational percentage goal for overall M/WBE Prime and subcontract participation in City of Greensboro contracts is established each year for Construction, Professional Services, Goods and Other Services contract Industry Categories. This Annual Aspirational Goal is to be set (and thereafter adjusted) by the Goal Setting Committee (GSC) on an annual basis based upon relative M/WBE availability data to be collected by the City through its Centralized Bidder Registration (“CBR”) system. Annual Aspirational Goals are not to be routinely applied to individual contracts, but are intended to serve as a benchmark against which to measure the overall effectiveness of the M/WBE Program on an annual basis, and to gauge the need for future adjustments to the mix and to the aggressiveness of remedies being applied under the Program. Percentage Goals for M/WBE participation may be established by the GSC on a contract-by-contract basis based upon similar data and analysis for the particular goods and services being purchased in a given contract.

**Award** – the final selection of a Respondent for a specified Prime Contractor subcontract dollar amount. Contract awards are made by the City to Prime Contractors or vendors and by Prime Contractors or vendors to Subcontractor or sub-vendors, usually pursuant to a solicitation process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are paid to a contractor under an awarded contract).

**Bidder / Participant** – Any person, firm, company, partnership, corporation, association, or joint venture seeking to be awarded a contract or subcontract on a project that is at least partially funded or supported in a pecuniary fashion by the City.

**Certification** – the process by which the M/WBE Office determines a firm to be a bona-fide minority-, or women-owned business enterprise. A firm may apply for multiple Certifications that cover each status category (e.g., MBE or WBE) for which it is able to satisfy eligibility standards. The M/WBE Office may contract these certification services to a State, regional Certification agency or other entity that agrees to abide by the City’s standards and criteria for certification. For purposes of Certification, the City accepts any firm that is certified by the State of North Carolina Secretary of Administration, local government entities, and other organizations identified herein that have been determined by the City Manager or his designee to have adopted Certification standards and procedures similar to those followed by the M/WBE Program, provided the prospective firm satisfies the eligibility requirements set forth in this Program Plan in Sections IV and VII. K.

**Certification Application** – this form shall be completed by vendors when verifying Certification and/or re-Certification status for participation in the City of Greensboro’s M/WBE Program. This form shall be submitted to the City’s M/WBE Office every two years by each certified vendor by the anniversary date of its original Certification.

**City** – refers to the City of Greensboro, NC.

**Commercially Useful Function** – an M/WBE firm performs a Commercially Useful Function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, staffing, managing and supervising the work involved. To perform a Commercially Useful Function, the M/WBE firm must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an M/WBE firm is performing a Commercially Useful Function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the M/WBE firm is to be paid under the contract is commensurate with the work it is actually performing and the M/WBE credit claimed for its performance of the work, and other relevant factors. Specifically, an M/WBE firm does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of meaningful and useful M/WBE participation, when in similar transactions in which M/WBE firms do not participate, there is no such role performed.

**Control** – the authority of a person or business owner to sign responses to solicitations and contracts, make price negotiation decisions, sell or liquidate the business and have the primary authority to direct the day-to-day management and operation of a business enterprise without interference from others.

**Economic Inclusion** – efforts to promote and maximize commercial transactions within, between and among all segments of the business population, regardless of race or gender, within the Relevant Marketplace.

**Formal Solicitation** – an invitation for bids, request for proposals, request for qualifications or other solicitation document issued by a City department for a contract that is valued at \$30,000 or greater, and that requires formal advertisement in accordance with the procurement rules adopted by the City Manager or designee through a memorandum issued by the City Manager or designee, an Administrative Directive, or a procurement manual issued under the authority of the City Manager or designee, and/or pursuant to statutory requirements.

**Good Faith Efforts** – Actions taken by Bidders and Participants to show that they actively and aggressively sought to achieve the applicable M/WBE project goal(s).

**Greensboro Metropolitan Statistical Area (MSA)**– also known as the Relevant Marketplace, the 10-county Greensboro – Winston-Salem – High Point geographic market area from which the City’s MGT Disparity Study Update analyzed contract utilization and availability data for disparity (currently including the counties of Guilford,

Randolph, Rockingham, Alamance, Surry, Davidson, Davie, Forsyth, Stokes, and Yadkin).

**Independently Owned and Operated** –Ownership of an M/WBE firm may be by Individuals and/or by other businesses provided the ownership interests in the M/WBE firm can satisfy the M/WBE eligibility requirements for ownership and Control. The M/WBE firm must also be Independently Owned and Operated in the sense that it cannot be the subsidiary or captive affiliate of another firm that does not itself (and in combination with the certified M/WBE firm) satisfy the eligibility requirements for M/WBE Certification.

**Individual** – an adult person that is of legal majority age.

**Informal Solicitations** – solicitations for contracts that are less than \$30,000 in value, and do not require Formal Solicitations.

**Minority/Women Business Enterprise (M/WBE)** – any firm that is certified as either a **Minority Business Enterprise** or as a **Women Business Enterprise**, and which is at least fifty-one percent (51%) owned, managed and Controlled by one or more of the identified Minority Group Members and/or women as indicated herein by Industry Category, and that is ready, willing and able to sell goods or services that are purchased by the City of Greensboro:

The categories of Minority Group Members and/or women that are eligible for certification as owning, managing, and controlling M/WBEs by Industry Categories are narrowly tailored based upon Disparity Study Update results as follows:

**Construction Prime Contracting:** African-Americans and non-Minority females

**Construction Subcontracting:** African-Americans, Asian-Americans, Native Americans, and Non-Minority females

**M/WBE Program** – the combination of race- and gender-neutral and race- and gender-conscious remedies, policies, procurement reforms, and Program Elements that are provided herein for the purpose of enhancing the ability of M/WBE firms to fairly compete for City contract opportunities, and for the purpose of establishing a broader marketplace environment that is less susceptible to the ongoing effects of discrimination.

**M/WBE Directory** – a listing of minority- and women-owned businesses that have been certified as eligible to participate in, and benefit from, the application of the City’s race- or gender-conscious M/WBE Program Elements.

**Minority Business Enterprise (MBE)** – any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified as being at least fifty-one percent (51%) owned, managed and Controlled by one or more Minority Group Members, and that is ready, willing and able to sell goods or services that are purchased by the City. To qualify as an MBE, the enterprise shall meet the **Significant Business**

**Presence** requirement as defined herein. Unless otherwise stated, the term “MBE” as used in this Program Plan is not inclusive of women-owned business enterprises (WBEs).

**Minority Group Members** – African-Americans, Asian Americans and Native Americans legally residing in, or that are citizens of, the United States or its territories, as defined below:

African-Americans: Persons having origins in any of the black racial groups of Africa as well as those identified as Jamaican, Trinidadian, or West Indian.

Asian-Americans: Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

Native Americans: Persons having no less than 1/16th percentage origin in any of the Native American Tribes of North America as recognized by the U.S.

Department of the Interior, Bureau of Indian Affairs and as demonstrated by possession of personal tribal role documents.

**Originating Department** – the City department or authorized representative of the City which issues a solicitation, or for which a solicitation is issued on behalf of, for its purchase of goods or services.

**Payment** – dollars actually paid to Prime Contractors and/or Subcontractors and vendors for City contracted goods and/or services.

**Prime Contractor** – the vendor or contractor to whom a purchase order or contract is issued by the City of Greensboro for purposes of providing goods or services for the City.

**Program Elements** – Refers to various race- and gender-neutral and race- and gender-conscious M/WBE Program tools and incentives that are used to encourage greater Prime and subcontract participation by M/WBE firms, including, but not limited to, bonding assistance, evaluation preferences, subcontracting goal(s) and joint venture incentives.

**Relevant Marketplace** – also known as “Greensboro Metropolitan Statistical Area,” the geographic market area for application of the M/WBE Program, as determined for purposes of collecting data for the MGT disparity study (and for determining eligibility for participation under various Program Elements established by this Program Plan) is defined as the Greensboro Metropolitan Statistical Area (Greensboro – Winston-Salem – High Point MSA), currently including the ten counties of Guilford, Randolph, Rockingham, Alamance, Surry, Davidson, Davie, Forsyth, Stokes, and Yadkin.

**Respondent** – a vendor or Bidder/Participant submitting a bid, statement of qualifications, or proposal in response to a solicitation issued by the City.

**Responsible** – a firm which is capable in all respects to fully perform the contract requirements and has the integrity and reliability which will assure good faith performance of contract specifications.

**Responsive** – a firm’s submittal (bid, response or proposal) conforms in all material respects to the solicitation (Invitation for Bid, Request for Qualifications, or Request for Proposal) and shall include compliance with M/WBE Program requirements.

**Significant Business Presence** – to qualify for this Program, an M/WBE firm must be headquartered or have a *significant business presence* for at least one year within the Relevant Marketplace, defined as: an established place of business in one or more of the ten counties that make up the Greensboro Metropolitan Statistical Area (Greensboro MSA), and from which at least 25% of its total full-time, part-time and contract employees are regularly based, and from which a substantial role in the M/WBE's performance of a Commercially Useful Function is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed to constitute a significant business presence.

**Subcontractor** – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the City. A copy of the binding agreement between the Prime Contractor and the Subcontractor shall be submitted prior to contract execution by the City and issuance of a Notice to Proceed.

**Utilization Documentation** – a binding part of the contract which includes the name of all Subcontractors to be utilized in the contract, specifying the M/WBE Certification category for each, as approved by the M/WBE Office. Additions, deletions or modifications of the utilization amounts or substitutions or deletions of M/WBE Subcontractors require an amendment to be approved by the M/WBE Facilitator or designee.

**Women Business Enterprises (WBE)** - any legal entity, except a joint venture, that is organized to engage in for-profit transactions, that is certified for purposes of this Program Plan as being at least fifty-one percent (51%) owned, managed and Controlled by one or more non-minority female Individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing, and able to sell goods or services that are purchased by the City and that meets the Significant Business Presence requirements as defined herein. Unless otherwise stated, the term “WBE” as used in this Program Plan is not inclusive of MBEs.

### III. PROGRAM COMPLIANCE RESPONSIBILITIES

Responsibility for M/WBE Program Plan Compliance is shared as follows:

#### **M/WBE Program**

The M/WBE Coordinator or designee, has primary responsibility for undertaking investigations to ensure that Originating Departments and City vendors are complying with the provisions of this Program Plan. In the event of non-compliance, the M/WBE

Coordinator or designee recommends the imposition of appropriate penalties and sanctions. In addition, the M/WBE Coordinator or designee has authority for general oversight and management of the Goal Setting Committee process, certification, graduation, Good Faith Efforts and waiver evaluations, and reporting requirements.

### **Vendor Responsibilities**

To facilitate the M/WBE Office completing its responsibilities in administering M/WBE Program Elements, a vendor shall:

- (a) Permit the M/WBE Office to inspect any relevant matter, including records and the jobsite, and to interview Subcontractors and workers (field compliance).
- (b) If performing a City Construction contract, ensure that all Subcontractors are paid any undisputed amount to which the Subcontractor is entitled within 10 calendar days of receiving a progress or final payment from the City and otherwise comply with City's contract terms and conditions which sets forth the obligations of the Prime Contractor and Subcontractors and the remedies for delinquency or nonpayment of undisputed amounts.
- (c) Notify the City in writing of any changes to their utilization and/or subcontracting plan. All changes (substitution and/or termination) must be approved in advance and in writing by the M/WBE Office.
- (d) Amendment for unforeseen circumstances: If at any time after submission of a solicitation response and before execution of a contract, the apparent successful Respondent determines that a certified M/WBE listed on the participation schedule has become or will become unavailable, then the apparent successful Respondent shall immediately notify the M/WBE Office. Any desired change in the M/WBE participation schedule shall be approved in advance by the M/WBE Office and shall indicate the Prime Contractor's Good Faith Efforts to substitute another certified M/WBE Subcontractor (as appropriate) to perform the work. Any desired changes (including substitutions or termination and self-performance) must be approved in writing in advance by the M/WBE Office.
- (e) Notify the Originating Department and M/WBE Office of transfer or assignment of contract with the City.
- (f) Retain record of all Subcontractor payments for a minimum of four years following project termination date.
- (g) Provide a copy of the binding agreement between the Prime Contractor and the Subcontractor to the Originating Department prior to contract execution by the City and issuance of a Notice to Proceed.

**IV. M/WBE PARTICIPATION REQUIREMENTS**

**Contract # 2016-012**

*(Insert Applicable M/WBE Subcontracting Requirements)*

Minority Business Enterprise (MBE) ..... **8** %

Women Business Enterprise (WBE) ..... **8** %

To be counted for M/WBE participation, M/WBE firms must be certified as an MBE or WBE at the time of the bid opening by the North Carolina Department of Administration or the North Carolina Department of Transportation and must have a significant business presence within the Greensboro MSA (Guilford, Randolph, Rockingham, Forsyth, Stokes, Davie, Yadkin, Davidson, Alamance and Surry Counties). Refer to the definition of a Minority/Women Business Enterprise (M/WBE) on page MWBE-6.

## **V. PRE-BID CONFERENCE**

The City may hold a pre-bid conference for all prospective Bidders and M/WBEs for the purpose of explaining the provisions and applications of this program and answering questions regarding the process for bidding and the contract to be performed. Data on M/WBEs interested and/or capable of engaging in the prospective contract shall be made available to prospective Bidders, contractors, and subcontractors from the MWBE Office through the host Department.

## **VI. CALCULATION OF M/WBE PARTICIPATION IN CONTRACTS AWARDED**

The degree of participation by minority- majority joint ventures, M/WBE contractors and M/WBE suppliers in contracts awarded will be calculated as follows:

- A. Once a firm is determined to be an eligible M/WBE in accordance with the M/WBE plan, the total value of the contract awarded to the MBE/WBE is counted as participation. The total dollar value of participation by a certified MBE/WBE will be based upon the value of work actually performed by the M/WBE and the actual payments to M/WBE firms by the Contractor.
- B. The City may count as its MBE/WBE participation only expenditures to M/WBE firms that perform a Commercially Useful function in the work of a contract. An M/WBE is considered to perform a significant function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether an M/WBE is performing a Commercially Useful function, the City will take into account the amount of work subcontracted, industry practices, and other relevant factors.
- C. Consistent with normal industry practices, an M/WBE may enter into subcontracts. If an M/WBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the M/WBE will be presumed not to be performing a Commercially Useful function. The M/WBE may present evidence to rebut this presumption to the City.
- D. The total dollar value of a contract to an M/WBE owned and controlled by both minority males and non-minority females is counted as participation for minorities and women respectively, in proportion of the percentage of ownership and control of each group in business. The total dollar value of an M/WBE owned and controlled by minority women is counted as the minorities' participation.

**VII. PROCEDURES TO ENSURE THAT PRIME CONTRACTORS  
MAKE GOOD FAITH EFFORTS TO PROVIDE EQUAL OPPORTUNITY  
TO M/WBE FIRMS IN CITY CONSTRUCTION PROGRAMS**

**A. Bidding Procedures for Projects that Contain M/WBE Contract Goals**

Prime Contractors make Good Faith Efforts to Provide Equal Opportunities to M/WBE firms in City Construction Programs. On City construction projects that have M/WBE contract Goal(s), the following bidding procedures will be used. Refer to Section VIII for information regarding waiver of a Program Element.

1. All Bidder/Participants must submit a “Good Faith Efforts” envelope to document their level of program element compliance. The Good Faith Efforts envelope shall be plainly marked “Good Faith Efforts”, with the outside of the envelope labeled with the bid solicitation number, the name of the Bidder, the Bidder’s return address, and phone number.
2. In addition to the “Good Faith Efforts” envelope, all Bidder/Participants shall submit their technical bid price or cost proposal in a sealed envelope that is plainly marked “Technical Bid and Cost Proposal”, with the outside of the envelope labeled with the bid solicitation number, the name of the Bidder, the Bidder’s return address, and phone number.
3. On the day of the bid opening, all “Good Faith Efforts” envelopes shall be opened first. No “Technical Bid - Cost Proposal” envelopes shall be opened until the M/WBE Office has first reviewed all of the affidavits in the “Good Faith Efforts” envelopes and the relevant supporting documentation and made a final determination as to the responsiveness of each Bidder/Participant.
4. If the M/WBE Office cannot make its determination on the day of the bid opening, the City shall continue the bid opening to a date certain or to a date no less than 48 hours after the City has informed the Bidder/Participants that a final determination has been made.
5. If the M/WBE Office determines that the Bidder/Participant has met the M/WBE contract Goal(s) or made sufficient Good Faith Efforts to meet the M/WBE contract Goal(s), the M/WBE Office shall instruct the Originating Department that the Bidder/Participant’s Technical Bid-Cost proposal envelope may be opened.
6. If the M/WBE Office determines that the Bidder/Participant has not met M/WBE contract Goal(s) and did not make sufficient Good Faith Efforts to meet the M/WBE Project Goals, the M/WBE Office shall instruct the Originating Department to reject the bid as non-responsive and return the *unopened* Technical Bid-Cost proposal to the Bidder/Participant.

7. When the bid opening resumes, the remaining Technical Bid-Cost Proposal envelopes will be publicly opened, and the contract will be awarded to the apparent lowest, responsive, responsible Bidder. The Originating Department will review the Technical Bid-Cost Proposal to determine whether it is responsive, (i.e., whether all addenda are acknowledged and all bid line items accurately completed).
8. The Bidder/Participant that is named as the apparent lowest, responsive, responsible Bidder shall submit an executed Affidavit D, Letter of Intent to Perform as an M/WBE Subcontractor **and/or** an executed Affidavit D2, Letter of Intent to Provide Materials or Supplies from each M/WBE firm proposed for use on the contract within three days of being so notified.

#### **B. Good Faith Efforts- In General**

On projects without contract-specific goal(s), the Bidder/Participant should make every reasonable effort to solicit M/WBE vendors whenever they are a potential source for goods and services necessary to perform the contract. For construction projects with M/WBE contract Goal(s), in the absence of a waiver granted by the M/WBE Office, Bidder/Participants must actively and aggressively seek to provide equal opportunity to certified M/WBE firms within the City's MSA and listed in the directory of the North Carolina Department of Administration and/or the North Carolina Department of Transportation to participate in subcontracting and significant material supplier opportunities available under the prime contract. Bidder/Participants shall solicit subcontractor bids and material quotes from individual certified M/WBE firms listed in the above-mentioned directory having their principal place of business or a significant business presence in the City's MSA. The Bidder/Participant shall solicit bids and quotes from these M/WBE firms to perform subcontracts for a Commercially Useful Function on behalf of the Bidder/Participant

#### **C. Good Faith Efforts Envelope-**

The documents that are required to be submitted in the Good Faith Efforts envelope will depend upon whether the Bidder/Participant met the M/WBE contract Goal(s) or did not meet the M/WBE contract Goal(s).

1. If the Bidder/Participant obtains sufficient M/WBE participation to meet or exceed the M/WBE contract Goal(s), the Bidder/Participant shall place the following documents in its Good Faith Efforts envelope:
  - a. Affidavit C, Subcontractor Utilization Commitment (M/WBE and Non-M/WBE Subcontractors). If a Bidder/Participant chooses to subcontract any portion of the contract with M/WBE firms and/or non-M/WBE firms, the Bidder/Participant shall provide Affidavit C **with the bid**.

- b. Affidavit F, Statement Of Subcontract Opportunities Offered
- c. In addition to Affidavits C and F, the Bidder may submit the Good Faith Efforts Affidavits and supporting documentation that are required of Bidder/Participants who do not meet the M/WBE contract Goal(s) in subsection C(2) below, ***but the Bidder/Participant is not required to do so***. If, however, one or more of the M/WBE contractors listed in Affidavit C is disqualified for any reason and the percentage of participation by the remaining M/WBE contractors fails to meet the M/WBE contract Goal(s), the Bidder/Participant's bid will be rejected as non-responsive if the Bidder/Participant does not include its Good Faith Efforts Affidavits and documentation with its bid. No additional time will be given for the Bidder/Participant to submit this information if it is not included with its bid.

2. If the Bidder/Participant ***does not*** obtain sufficient M/WBE participation to meet or exceed the M/WBE contract Goal(s), the Bidder/Participant should put the following documents in its Good Faith Efforts envelope as well as any supporting documentation:

- a. Affidavit A, Listing Of Good Faith Efforts – Subcontracting & Supplies;
- b. Affidavit B, M/WBE Program Certification Of Good Faith Efforts;
- c. Affidavit C, Subcontractor Utilization Commitment (M/WBE and Non-M/WBE Subcontractors; and
- d. Affidavit F, Statement Of Subcontract Opportunities Offered

***or if applicable***

- e. Affidavit E, Statement Of Intent To Perform Work Without Subcontracting (refer to Section VIII(B) for more information about Affidavit E).

3. Any M/WBE firm that is listed on Affidavit C that is not certified M/WBE within the City's MSA **will not** be counted towards the M/WBE contract Goal(s). If the percentage of participation of the remaining certified M/WBE firms on a Bidder/Participant's Affidavit C is less than the City's M/WBE contract Goal(s), the Bidder/Participant's Good Faith Efforts documentation that was included in the Good Faith Efforts envelope will be reviewed to determine whether it made sufficient Good Faith Efforts to be considered as a responsive bidder. No additional time will be given to the Bidder/Participant to submit its Good Faith Efforts documentation if it is not included with its bid.

- D. Technical Bid-Cost Proposal Envelope-** The Technical Bid-Cost Proposal envelope shall contain the documents that contain the bid price or the total cost to perform the work in the bid specifications.

**E. Affidavit B- M/WBE Program Certification of Good Faith Efforts-**

Bidders/Participants that fail to meet one or more of the M/WBE contract Goal(s) must earn a **minimum of 50 Points** from the Good Faith Effort categories listed below. The minimum Good Faith Efforts Points will be calculated, independently, for each MBE or WBE subcontracting goal that was not met.

**For instance, if a Bidder/Participant failed to meet both the MBE Goal and the WBE Goal that were set, the Bidder/Participant would have to earn at least 50 points from the list below with respect to MBEs, and at least 50 points with respect to WBEs. In deciding whether to award points in a Good Faith Efforts category, the City will assess whether the efforts employed by the Bidder/Participant are those that a prime contractor would reasonably be expected to take if they were actively and aggressively trying to meet each M/WBE Goal(s) established for the Contract.**

This assessment will be made on a case by case basis taking all available facts into account. The focus will be on the likely effectiveness of steps taken. Mere pro forma efforts will not be sufficient.

In awarding points for Good Faith Efforts, the City may also take into account: (1) the Bidder's/Participant's past performance in meeting MWBE and goals; and (2) the performance of other Bidder/Participants in meeting the established M/WBE Goals. For example, when a Bidder/Participant fails to meet a MBE contract Goal, but other Bidders/Participants meet it, the City may reasonably raise the question of whether, with additional reasonable efforts, a Bidder/Participant could have met the goal. The Good Faith Efforts categories that will be considered are described below:

**Contacts (10 Points)**

The Bidder/Participant must contact M/WBEs in a manner reasonably calculated to meet each M/WBE Contract Goal established for the Contract.

Factors considered may include but are not limited to:

1. The number of available M/WBEs and the M/WBEs contacted;
2. Whether the Bidder/Participant directed its contacts to M/WBEs listed as performing scopes of work sufficient to meet each Subcontracting Goal;
3. Whether the contacts were made at least 10 Days before Bid Opening;
4. How the contacts were made and whether they were documented in a verifiable way (and in compliance with any forms provided by the City);
5. Whether the substance of the Bidder/Participant's solicitation was reasonably sufficient to generate a response from M/WBEs;
6. Whether the Bidder/Participant promptly and adequately responded to inquiries received from M/WBEs; and
7. Whether the Bidder/Participant made follow up telephone contact with M/WBEs that did not respond to the Bidder's/Participant's initial contact.

### **Making Plans Available (10 Points)**

To receive credit for this Good Faith Effort, the Bidder/Participant must:

1. Make “Project Documents” (as defined below) available for inspection by M/WBES at least 10 Days before Bid Opening; and
2. Notify the M/WBES contacted of the way in which Project Documents will be made available. The ways a Bidder/Participant may make Project Documents available include:
  - (a) Providing a telephone number or email address for M/WBES requesting copies of the Project Documents via email, fax, regular mail or other means of document transfer; or
  - (b) Providing an address within the City of Greensboro where MWBES can have physical access to review the Project Documents at no cost; or
  - (c) Posting the Project Documents on a website that M/WBES can access at no cost.
3. As used herein, Project Documents means any project descriptions, construction plans, specifications or requirements that are necessary for M/WBES to bid on the project.

**\*\*A Bidder/Participant may receive credit for this GFE only if it receives credit for the Contacts GFE, and only if it responds promptly to any requests made for access to the Project Documents.**

Some plans and designs for City buildings and infrastructure may be restricted from disclosure under federal Homeland Security laws. If the City Solicitation Documents indicate that the Project Documents are restricted from disclosure, the Bidder/Participant shall comply with the City’s instructions in making such documents available for review. For example, the City Solicitation Documents may require that M/WBES sign a confidentiality agreement in a form approved by the City as a condition to disclosure.

### **Breaking Down Work (15 Points)**

The Bidder/Participant must demonstrate to the City’s satisfaction that it broke down or combined elements of work into economically feasible units to facilitate M/WBE participation. In awarding points the City will consider:

1. The number and dollar value of the scopes of work the Bidder/Participant listed for M/WBE participation;
2. Whether those scopes would be sufficient to meet the Subcontracting Goals and how the Bidder/Participant notified MWBES of its willingness to break down the work into such units;

3. Whether the Bidder/Participant evaluated all work items to determine if there were 2<sup>nd</sup> and 3<sup>rd</sup> tier subcontract opportunities available;
4. Whether the Bidder/Participant solicited certified M/WBEs available to provide the 2<sup>nd</sup> and 3<sup>rd</sup> tier subcontract opportunities;
5. Whether the Bidder/Participant included certified M/WBEs in the solicitation of all work items that will not be performed by the Bidder.

**\*\*A Bidder/Participant may receive credit for this GFE only if it receives credit for the Contacts GFE.**

#### **Working With SBE and M/WBE Assistance Organizations (10 Points)**

The Bidder/Participant must document that it worked with an M/WBE Assistance Organization (as defined below), to provide assistance in recruiting M/WBEs to meet the M/WBE goals. An "M/WBE Assistance Organization" is an organization listed in the NC Department of Administration Historically Underutilized Businesses Outreach section as providing assistance in the recruitment of M/WBEs. The list can be accessed at <http://www.doa.nc.gov/hub/OutReach.aspx>. In deciding whether to award points for this GFE, the City will consider the timing and nature of how the Bidder/Participant worked with the M/WBE Assistance Organization, and whether such effort was reasonably likely to result in significant M/WBE participation to meet the contract goal(s).

#### **Attendance at Pre-Bid (10 Points)**

To receive credit for this GFE, the Bidder/Participant must attend pre-bid meetings scheduled by the City for the contract in question.

#### **Bonding or Insurance Assistance on Construction Contract (20 Points)**

The Bidder/Participant must assist an MWBE in getting required bonding or insurance coverage for the contract at issue or provide alternatives to bonding or insurance for M/WBEs. To satisfy this requirement, the Bidder/Participant must submit:

1. The name of the M/WBE;
2. The description of the assistance the Bidder/Participant provided;
3. The date the Bidder/Participant provided the assistance;
4. The name of a contact person with the MWBE who can verify that the Bidder/Participant provided the assistance;
5. Any additional information requested by the City's M/WBE Office. No credit will be given for assistance provided to an Affiliate of the Bidder/Participant.

In deciding whether to award points for this Good Faith Effort, the City will consider:

- (a) How significant and meaningful the assistance was;
- (b) How many M/WBEs it was offered to, and
- (c) What impact it likely had on the Bidder/Participant's efforts to recruit M/WBEs for the project.

**Negotiating in Good Faith with MWBEs (15 Points)**

The Bidder/Participant must:

1. Demonstrate that it negotiated in good faith with interested M/WBEs (which means showing at least some back and forth negotiation between the Bidder/Participant and MWBEs);
2. Demonstrate that it did not reject any M/WBEs as unqualified without sound reasons based on their capabilities and document in writing the reasons for rejecting any M/WBEs for lack of qualification;
3. The Bidder/ Participant must not alter any dollar amounts and/or scopes of work, If a revision is required, a revised quote must be submitted;
4. All telephone quotes must be followed up with a hard quote;
5. All quotes must be received prior to bid opening.

**Financial Assistance (25 Points)**

The Bidder/Participant must provide one of the following types of assistance to an M/WBE in connection with the Contract:

1. Assistance in obtaining equipment, a loan, capital, lines of credit, joint pay agreements or Guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required; or
2. Assistance in obtaining the same unit pricing with the Bidder's/ Participant's suppliers as the Bidder/ Participant.

To receive credit for this Good Faith Effort, Bidder/Participant must:

- (a) Include language in its solicitation letter and publication advertisement stating the Bidder's/ Participant's Financial Assistance Policy;
- (b) Submit the publication affidavit and a copy of the advertisement;
- (c) Document the description of the assistance the Bidder/ Participant provided;
- (d) Document the date the Bidder/ Participant provided the assistance;
- (e) Document the name of a contact person with the MWBE who can verify that the Bidder/ Participant provided the assistance.
- (f) No credit will be given for assistance provided to an Affiliate of the Bidder/ Participant. In deciding whether to award points for this Good Faith Effort, the City will consider how significant and meaningful the assistance was, how many M/WBEs it was offered to, and what impact it likely had on the Bidder's/Participant 's efforts to recruit M/WBEs for the project.

**Entering Into Joint Venture (20 Points)**

To receive credit for this Good Faith Effort, the Bidder/ Participant must demonstrate that it negotiated a Joint Venture or partnership arrangement with one or more MWBEs on the Contract.

To receive credit for this Good Faith Effort, a Bidder/ Participant must document:

- (a) The name of the MWBE;
- (b) A description of the Joint Venture or partnership;
- (c) Evidence of the date the MWBE entered into the agreement; and
- (d) The name of a contact person with the MWBE who can verify the terms of the agreement.

No credit will be given for a joint venture with an Affiliate of the Bidder/Participant.

**Quick Pay Agreements on the Construction Contract Up For Award (20 Points)**

For purposes of this Section, the term "Quick Pay Commitment" means a commitment to pay all M/WBEs participating in the Construction Contract within 20 Days after the Contractor confirms the MWBEs work has been properly completed and/or accepted by the City's Project Manager. To receive credit for this GFE, Bidders/Participants must:

- (a) Provide the City with a copy of a policy containing the above referenced Quick Pay Commitment that the Bidder/Participant has adopted for the project and document that the Bidder/Participant informed each M/WBE about the Quick Pay Commitment as part of the Bidder's/Participant's M/WBE contacts; or
- (b) Document that prior to Bid Opening, the Bidder/Participant made a written Quick Pay Commitment to each MWBE that will participate in the Contract.

**Including a statement in a Bid solicitation letter indicating that the Bidder/Participant *will consider* entering into quick pay agreements will not suffice. A Bidder/Participant may receive credit under this GFE only if it receives credit for the Contacts GFE.**

**GFE Documentation**

To demonstrate GFE compliance, a Bidder/Participant shall complete such forms and provide such documentation as may be required by the City in the City's Solicitation Documents or is necessary to show that the Bidder/Participant met all of the requirements to receive the Good Faith Effort points it identifies on Affidavit B. The Bidder/Participant must submit Affidavit B and all Good Faith Effort Documentation no later than at the time of the bid.

**Competitive and Responsive Bids**

Nothing in this plan is to be construed to require contractors to award subcontracts to, or make significant material purchases from M/WBEs who do not submit the lowest responsive sub-bid. In the event of failure of a contractor to utilize "Good Faith Efforts" as determined by the City, such contractor, shall be subject to rejection of the bid as being non-responsive with a recommendation that the contract be awarded to the next lowest responsive, responsible bidder.

## VIII. REQUEST FOR WAIVERS OF M/WBE PROGRAM ELEMENTS

An M/WBE Program Element is a tool or incentive used to encourage greater Prime and subcontract participation by M/WBE firms. Examples of M/WBE Program Elements are MWBE Weighted Contract-Specific Subcontracting Goals, M/WBE Mentor-Protégé, and Bonding Assistance. All M/WBE Program Elements are described in the M/WBE Plan on pages 18-28.

### A. Waivers in General

If a Bidder/Participant would like to be excused from complying with one or more of the M/WBE Program Elements selected for a contract, the Bidder/Participant may submit the attached Affidavit H, a Request for Waiver of Compliance with the M/WBE Program Element Participation Requirements, to the person or department issuing the bid documents *at least three (3) days prior to the bid opening*. If the M/WBE Office determines that any Program Element waiver request is granted, then the M/WBE Office working with the Originating Department shall amend the bid solicitation by modifying or waiving the Program Element accordingly for all prospective bidders via the issuance of a project addendum. A Bidder or Participant who has made Good Faith Efforts to meet the contract specific goal(s) would not submit Affidavit H. They would submit Affidavit A, B, and C.

### B. Self-Performance

If a Bidder/Participant would like to perform 100% of the work under a Contract with its own workforce, it must submit Affidavit E, Statement Of Intent To Perform Work Without Subcontracting, in its Good Faith Efforts envelope with the bid. The Bidder/Participant will still be required to make Good Faith Efforts to provide equal opportunity to M/WBE firms to participate in significant material supplier opportunities under the prime contract. Bidder/Participants who intend to self-perform on the project must also submit **with their bid**, Affidavit A, Affidavit of Good Faith Efforts – Subcontracting & Supplies.

*If the Bidder /Participant is not licensed to perform each and every type of work included in the Contract, or if the City has cause to believe based on past practice or other grounds that the Bidder/Participant will not be performing all work under the Contract with its own workforce, the City may reject the Bidder's/Participant's Affidavit E and reject the bid as non-responsive.*

## IX. PROGRAM COMPLIANCE AND SANCTIONS FOR FAILURE TO ADEQUATELY DOCUMENT GOOD FAITH EFFORTS

### A. Determination of Program Compliance and Non-Compliance

1. The M/WBE Office, along with contracting staff of each City department, shall monitor compliance with the Program Element requirements during the term of the

contract. This can be done through documentation, site visits, inspections, etc., with periodic reports to the M/WBE Program Office.

2. If it is determined that there is cause to believe that a Prime Contractor or Subcontractor has failed to comply with any of the requirements of this Program Plan, or with the contract provisions pertaining to M/WBE utilization, the M/WBE Office shall so notify the Originating Department and the contractor.
3. The M/WBE Manager or designee may require such reports, information and documentation from contractors, and the head of any City department, division or office as are reasonably necessary to determine compliance with the Program Plan requirements, within fifteen (15) calendar days after the notice of noncompliance.
4. If the requested materials are not received within fifteen (15) calendar days, then a finding of noncompliance is determined and appropriate penalties and sanctions will apply as stated in Section VIII (B) of this Special Instructions to Bidders.
5. It shall be the joint responsibility of the M/WBE Manager or designee and the Director of the Originating Department or designee to attempt to resolve the noncompliance with the requirements of this Program Plan, or the contract provisions pertaining to M/WBE utilization, within fifteen (15) calendar days.
6. If noncompliance cannot be resolved within the fifteen (15) calendar days, the M/WBE Coordinator or designee and the Director of the Originating Department or designee shall submit written recommendations to the City Manager or designee and if the City Manager or designee concurs with the finding, such sanctions as stated in Section VIII of this Special Instructions to Bidders shall be imposed.
7. Problems with compliance when appropriate will be referred to the "Good Faith" Committee. M/WBE staff and a representative from the Legal Department will serve as liaisons to the Committee.
8. Upon a preliminary determination of noncompliance by the operating department and M/WBE Office, the "Good Faith" Committee shall receive all supporting data of good faith efforts from the Originating Department and shall cause a contractor to be duly notified that the "Good Faith" Committee shall conduct a hearing with the contractor and/or his representative. The Contractor may be represented and may present evidence and submit documentation pertaining to good faith efforts to provide equal opportunity for M/WBEs certified with the North Carolina Secretary of Administration to participate in subcontracting and significant material supplier opportunities available under the prime contract.
9. The "Good Faith" Committee will make its determination on the adequacy of the good faith efforts and report its findings and any sanctions imposed to the Contractor within five (5) calendar days of the conclusion of the hearing. The Contractor may appeal the decision rendered by the "Good Faith" Committee to the City Manager, or

his designee in writing within five (5) calendar days of notification of the Committee's decision, but not otherwise.

10. The City Manager or his designee shall schedule a hearing with the contractor and/or his representative. The record of the "Good Faith" Committee hearing shall be presented on behalf of the Contractor and the City. The City Manager or his designee shall make a decision and notify the Contractor within five (5) calendar days following the hearing. The decision of the City Manager or his designee shall be final.

## **B. Sanctions**

Upon determination and recommendation of sanctions by the City Manager or designee regarding the failure of a contractor, vendor, Respondent or other business representative to comply with any portion of this Program Plan, the non-complying party shall be subject to any or all of the following penalties:

- i) Suspension of contract;
- ii) Withholding of funds;
- iii) Rescission of contract based upon a material breach of contract pertaining to M/WBE Program compliance;
- iv) Refusal to accept a response or proposal; and
- v) Disqualification of a Respondent, contractor or other business from eligibility for providing goods or services to the City for a period not to exceed two years (upon City Council approval).

It is a violation of this Program Plan to:

- i) Fraudulently obtain, retain or attempt to obtain, retain or aid another in fraudulently obtaining, retaining or attempting to obtain or retain Certification status as an MBE, WBE, or M/WBE for purposes of this Program Plan.
- ii) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of this Program Plan.
- iii) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an M/WBE.
- iv) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of this Program Plan.
- v) Make false statements to any entity that any other entity is or is not certified as an M/WBE for purposes of this Program Plan.

Any person who violates the provisions of this section shall be subject to these sanctions, as well as any other remedies available under law up to the maximum penalty provided by law. In the event any of the sanctions set forth above are to be utilized, then appropriate provisions shall be contained in the specifications which will expose the contractor to any of those sanctions so set out therein.

**X. M/WBE GOOD FAITH EFFORTS / WAIVER REVIEW APPEAL  
PROCESS**

If a bid is rejected because the M/WBE Coordinator determined that submitted documentation is inadequate to establish Good Faith Efforts or to justify the granting of a waiver, the Bidder may request a review of this determination in accordance with the following process:

The Bidder who wishes to dispute the Good Faith Efforts or Waiver decision of the M/WBE Office may have that decision reviewed by the City Manager or designee provided the Bidder submits a request for review in writing to the Operating Department within five (5) business days of the date of the decision to reject the bid. The request shall contain specific reasons and any supporting documentation for why the Bidder believes that the Good Faith Efforts or Waiver decision was in error.

The Operating Department shall refer the matter to the City Manager or designee. The hearing shall be scheduled within ten (10) business days of the receipt of the review request. The Bidder will be provided all relevant documents in possession of the M/WBE Office. The City Manager or designee shall review the Good Faith Efforts or Waiver decision with the Bidder and/or his representative and the M/WBE Coordinator. At the hearing, the Bidder may question the M/WBE Coordinator regarding the Good Faith Efforts or Waiver decision.

The City Manager, or his designee, shall make a decision and notify the Bidder within five (5) business days following the hearing. The City Manager may affirm, reverse, or modify the Good Faith Efforts or Waiver decision of the M/WBE Office. The decision of the City Manager, or designee, shall be final.

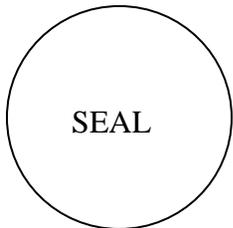
Name of Prime Contractor: \_\_\_\_\_ Project Name: \_\_\_\_\_

If the contract/project M/WBE participation requirements are not achieved, the bidder/participant shall provide the following documentation of Good Faith Efforts to the City.

MBE	WBE	Company Name	Email Address or Fax Number for Initial Contact	Date of Initial Contact	Service/ Material/ Supplies to be Provided	Date of Follow Up Telephone Contact	Phone Number	Person Contacted	Results

*(Submit additional Pages, if necessary)*

Pursuant to “Special Instructions to Bidders Regarding Compliance with the City of Greensboro Minority and Women Business Enterprise (MWBE) Program Policies”, the Bidder certifies that the above Minority/Women-owned Business Enterprise(s) was (were) contacted in good faith. The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Bidder in accordance herewith. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.



Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
 State of \_\_\_\_\_ County of \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

Affidavit B

**Certification of Good Faith Efforts**

Bidder / Participant Name: \_\_\_\_\_

\_\_\_\_\_  
 (Contract Number)

\_\_\_\_\_  
 (Project Name)

If a Bidder/Participant has not fully met the M/WBE Project Goals established for this project, then it must document it has met the Good Faith Efforts (GFE) requirements by completing this Form. Detailed information of the City's GFE requirements can be found in the Special Instructions to Bidders Regarding Compliance with the City of Greensboro Minority and Women Business Enterprise (M/WBE) Program ("Special Instructions"). The Bidder/Participant must submit Affidavit B, Good Faith Efforts Form at the time of its bid in a sealed envelope plainly marked "Good Faith Efforts" in accordance with Section VII of the Special Instructions. Failure to do so constitutes grounds for rejection of the Bid. Below is a list of Good Faith Efforts as defined in Section VII (B). To the left of each item is the number of points assigned to that item. Please place an "X" in the first column for each item you are claiming credit. The assessment will be made on a case by case basis taking all available facts into account. The focus will be on the likely effectiveness of steps taken. Mere pro forma efforts will not be sufficient. Bidders must earn a minimum of 50 points from the good faith efforts list to be considered responsive.

**NOTE: All actions necessary to earn GFE Points must be undertaken prior to Bid Opening.**

Minimum Number of GFE Points Required		<b>50</b>
<b>GFE Points</b>	<b>Good Faith Efforts (GFE)</b>	
<input type="checkbox"/>	10	<p><b>Contacts.</b> The Bidder/Participant must contact M/WBEs in a manner reasonably calculated to meet each Subcontracting Goal established for the Contract. Factors considered may include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. The number of available M/WBEs and the M/WBEs contacted;</li> <li>2. Whether the Bidder/Participant directed its contacts to all M/WBEs listed as performing scopes of work sufficient to meet each Subcontracting Goal;</li> <li>3. Whether the contacts were made at least 10 Days before the Bid Opening;</li> <li>4. How the contacts were made and whether they were documented in a verifiable way (and in compliance with any forms provided by the City);</li> <li>5. Whether the substance of the Bidder/Participant's solicitation was reasonably sufficient to generate a response from M/WBEs;</li> <li>6. Whether the Bidder/Participant promptly and adequately responded to inquiries received from M/WBEs; and</li> <li>7. Whether the Bidder/Participant made follow up telephone contact with M/WBEs that did not respond to the Bidder's/Participant's initial contact.</li> </ol>
		<p><b>Making Plans Available.</b> To receive credit for this GFE, the Bidder/Participant must make "Project Documents" (as defined below) available for inspection by M/WBEs at least 10 Days before Bid Opening <b>and</b> notify the M/WBEs contacted of the way in which Project Documents will be made available. The ways a Bidder/Participant may make Project Documents available include:</p>

<input type="checkbox"/>	<p>10</p>	<p>1. Providing a telephone number or email address for M/WBEs requesting copies of the Project Documents via email, fax, regular mail or other means of document transfer; <b>or</b></p> <p>2. Providing an address within the City of Greensboro where MWBEs can have physical access to review Project Documents at no cost; <b>or</b></p> <p>3. Posting the Project Documents on a website where M/WBEs can access at no cost.</p> <p><b>**A Bidder/Participant may receive credit for this GFE only if it receives credit for the Contacts GFE, and only if it responds promptly to any requests made for access to the Project Documents.</b></p> <p>As used herein, <b>Project Documents</b> means any project descriptions, construction plans, specifications or requirements that are necessary for M/WBEs to bid on the project. Some plans and designs for City buildings and infrastructure may be restricted from disclosure under federal Homeland Security laws. If the City Solicitation Documents indicate that the Project Documents are restricted from disclosure, the Bidder/Participant shall comply with the City’s instructions in making such documents available for review. For example, the City Solicitation Documents may require that M/WBEs sign a confidentiality agreement in a form approved by the City as a condition to disclosure.</p>
<input type="checkbox"/>	<p>15</p>	<p><b>Breaking Down Work.</b> The Bidder/Participant must demonstrate to the City’s satisfaction that it broke down or combined elements of work into economically feasible units to facilitate M/WBE participation. In awarding points the City will consider:</p> <ol style="list-style-type: none"> <li>1. The number and dollar value of the scopes of work the Bidder/Participant listed for M/WBE participation;</li> <li>2. Whether those scopes would be sufficient to meet the Subcontracting Goals and how the Bidder/Participant notified MWBEs of its willingness to break down the work into such units;</li> <li>3. Whether the Bidder/Participant evaluated all work items to determine if there were 2<sup>nd</sup> and 3<sup>rd</sup> tier subcontract opportunities available;</li> <li>4. Whether the Bidder/Participant solicited certified M/WBEs available to provide the 2<sup>nd</sup> and 3<sup>rd</sup> tier subcontract opportunities;</li> <li>5. Whether the Bidder/Participant included certified M/WBEs in the solicitation of all work items that will not be performed by the Bidder.</li> </ol> <p><b>**A Bidder/Participant may receive credit for this GFE only if it receives credit for the Contacts GFE.</b></p>
<input type="checkbox"/>	<p>10</p>	<p><b>Working With M/WBE Assistance Organizations.</b> The Bidder/Participant must document that it worked with an M/WBE Assistance Organization (as defined below), to provide assistance in recruiting M/WBEs to meet the M/WBE goals. An “M/WBE Assistance Organization” is an organization listed in the NC Department of Administration Historically Underutilized Businesses Outreach section as providing assistance in the recruitment of M/WBEs. The list can be accessed at <a href="http://www.doa.nc.gov/hub/OutReach.aspx">http://www.doa.nc.gov/hub/OutReach.aspx</a>. <b>In deciding whether to award points for this GFE, the City will consider the timing and nature of how the Bidder/Participant worked with the M/WBE Assistance Organization, and whether such effort was reasonably likely to result in significant M/WBE participation to meet the Contract goals.</b></p>

<input type="checkbox"/>	10	<p><b>Attendance at Pre-Bid.</b> To receive credit for this GFE, the Bidder must attend any pre-bid meetings scheduled by the City for the Contract in question.</p>
<input type="checkbox"/>	20	<p><b>Bonding or Insurance Assistance on Construction Contract.</b> The Bidder/Participant must assist an MWBE in getting required bonding or insurance coverage for the Contract at issue or provide alternatives to bonding or insurance for M/WBEs. To document satisfaction of this GFE, the Bidder/Participant must submit:</p> <ol style="list-style-type: none"> <li>1. The name of the M/WBE;</li> <li>2. The description of the assistance the Bidder/Participant provided;</li> <li>3. The date the Bidder/Participant provided the assistance;</li> <li>4. The name of a contact person with the MWBE who can verify that the Bidder/Participant provided the assistance;</li> <li>5. Any additional information requested by the City's M/WBE Office. No credit will be given for assistance provided to an Affiliate of the Bidder/Participant.</li> </ol> <p><b>In deciding whether to award points for this GFE, the City will consider:</b></p> <ol style="list-style-type: none"> <li>(a) <b>How significant and meaningful the assistance was;</b></li> <li>(b) <b>How many M/WBEs to the assistance was provided to, and</b></li> <li>(c) <b>What impact it likely had on the Bidder/Participant's efforts to recruit M/WBEs for the project.</b></li> </ol>
<input type="checkbox"/>	15	<p><b>Negotiating in Good Faith with M/WBEs.</b>The Bidder/Participant must:</p> <ol style="list-style-type: none"> <li>1. Demonstrate that it negotiated in good faith with interested M/WBEs (which means showing at least some back and forth negotiation between the Bidder/Participant and MWBEs);</li> <li>2. Demonstrate that it did not reject any M/WBEs as unqualified without sound reasons based on their capabilities and document in writing the reasons for rejecting any M/WBEs for lack of qualification;</li> <li>3. The Bidder/ Participant must not alter any dollar amounts and/or scopes of work, If a revision is required, a revised quote must be submitted;</li> <li>4. All telephone quotes must be followed up with a hard quote;</li> <li>5. All quotes must be received prior to bid opening.</li> </ol>
<input type="checkbox"/>	25	<p><b>Financial Assistance.</b> The Bidder/Participant must provide one of the following types of assistance to an M/WBE in connection with the Contract:</p> <ol style="list-style-type: none"> <li>1. Assistance in obtaining equipment, a loan, capital, lines of credit, joint pay agreements or Guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required; or</li> <li>2. Assistance in obtaining the same unit pricing with the Bidder's/ Participant's suppliers as the Bidder/ Participant.</li> </ol> <p><b>To receive credit for this GFE, Bidder/Participant must:</b></p> <ol style="list-style-type: none"> <li>a. <b>Include language in its solicitation letter and publication advertisement stating the Bidder's/ Participant's Financial Assistance Policy;</b></li> <li>b. <b>Submit the publication form and a copy of the advertisement;</b></li> <li>c. <b>Document the description of the assistance the Bidder/ Participant provided;</b></li> <li>d. <b>Document the date the Bidder/ Participant provided the assistance;</b></li> <li>e. Document the name of a contact person with the MWBE who can verify that the Bidder/ Participant provided the assistance.</li> </ol> <p><b>No credit will be given for assistance provided to an Affiliate of the Bidder/ Participant. In deciding whether to award points for this GFE, the City will consider how significant and meaningful the assistance was, how many</b></p>

		<b>M/WBEs assistances was provided to , and what impact it likely had on the Bidder's/ Participant 's efforts to recruit M/WBEs for the project.</b>
<input type="checkbox"/>	20	<p><b>Entering Into Joint Venture.</b> To receive credit for this GFE, the Bidder must demonstrate that it negotiated a Joint Venture or partnership arrangement with one or more M/WBEs, as applicable, on the Contract. To receive credit for this GFE, Bidders must document:</p> <ol style="list-style-type: none"> <li>1. The name of the M/WBE;</li> <li>2. A description of the Joint Venture or partnership;</li> <li>3. Evidence of the date the M/WBE entered into the agreement; and</li> <li>4. The name of a contact person with the M/WBE who can verify the terms of the agreement.</li> </ol> <p><b>No credit will be given for a joint venture with an Affiliate of the Bidder.</b></p>
<input type="checkbox"/>	20	<p><b>Quick Pay Agreements on the Construction Contract Up For Award.</b> For purposes of this Section, the term "Quick Pay Commitment" means a commitment <b>to pay all M/WBEs</b> participating in the Construction Contract within 20 Days after the Contractor confirms the MWBEs work has been properly completed and/or accepted by the City's Project Manager. To receive credit for this GFE, Bidders/Participants must:</p> <ol style="list-style-type: none"> <li>1. Provide the City with a copy of a policy containing the above referenced Quick Pay Commitment that the Bidder/Participant has adopted for the project and document that the Bidder/Participant informed each M/WBE about the Quick Pay Commitment as part of the Bidder's/Participant's M/WBE contacts; <b>or</b></li> <li>2. Document that prior to Bid Opening, the Bidder/Participant made a written Quick Pay Commitment to each MWBE that will participate in the Contract.</li> </ol> <p><b>Including a statement in a Bid solicitation letter indicating that the Bidder/Participant will consider entering into quick pay agreements will not suffice. A Bidder/Participant may receive credit under this GFE only if it receives credit for the Contacts GFE.</b></p>

155 Total Available GFE Points  
 \_\_\_\_\_ Total GFE Points Claimed by the Bidder  
 \_\_\_\_\_ Total GFE Points Earned (to be completed by City)

I hereby affirm that the Bidder/Participant listed above performed the Good Faith Efforts selected on this form and accumulated the Good Faith Efforts Points stated hereinabove. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_



State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

Affidavit C – **Subcontractor Utilization Commitment** Contract Number: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

Name of Prime Contractor: \_\_\_\_\_ Project Name: \_\_\_\_\_

\*\*Are you a certified M/WBE? \_\_\_\_\_ Yes \_\_\_\_\_ No

The Bidder/Participant must indicate all subcontracts (M/WBE & NON-M/WBE) it intends to utilize as follows:

MBE	WBE	NON M/WBE	Subcontractor Name & County**	Nature of Work to be Performed	% Utilization
<p><i>**Only M/WBE firms that are certified by the North Carolina Department of Administration or the North Carolina Department of Transportation and have a significant business presence within the Greensboro MSA (Guilford, Randolph, Rockingham, Forsyth, Stokes, Davie, Yadkin, Davidson, Alamance and Surry Counties) will be counted towards the M/WBE goal(s).</i></p>				<b>Total NON-M/WBE Utilization Commitment</b>	
				<b>Total MBE Utilization Commitment</b>	
				<b>Total WBE Utilization Commitment</b>	

(Submit Additional pages, if necessary)

The undersigned will enter into a formal agreement with the M/WBE firm(s) for work listed on this affidavit conditional upon execution of a contract with the City of Greensboro. Breach of this commitment constitutes breach of bidder’s contract if awarded. The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Bidder in accordance herewith. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.



Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
 State of \_\_\_\_\_ County of \_\_\_\_\_  
 Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

Affidavit D-1 – **Letter of Intent to Perform as a M/WBE Subcontractor** Contract Number: \_\_\_\_\_

Name of Prime Contractor: \_\_\_\_\_ Project Name: \_\_\_\_\_

The undersigned intends to perform work in connection with the above project as:

	Minority Business Enterprise		Women Business Enterprise
	Individual		A Corporation
	A Partnership		A Joint Venture

The undersigned is certified by the North Carolina Department of Administration or the North Carolina Department of Transportation and is headquartered or has a significant business presence within the Greensboro MSA.

The undersigned is prepared to provide the work (described below) in connection with the above project at the following price: \$ \_\_\_\_\_. Any changes in this commitment must be approved in advance by the M/WBE Office.

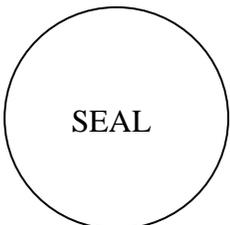
\_\_\_\_\_ % of the dollar value of the subcontract will be sub-let to (if applicable) \_\_\_\_\_.

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Description of the Work	Projected Commencement Date	Projected Completion Date

This document shall not serve in a manner as an actual subcontract between the two parties. A separate binding agreement will describe in detail the contractual obligation of the contractor and the M/WBE subcontractor. The undersigned will enter into a formal agreement for the above work with you conditioned upon your execution of a contract with the City of Greensboro. Breach of this commitment constitutes breach of bidder's contract if awarded.

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Bidder in accordance herewith. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.



Company Name: \_\_\_\_\_  
 Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
 State of \_\_\_\_\_ County of \_\_\_\_\_  
 Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

Affidavit D-2 – **Letter of Intent to Provide Materials or Supplies** Contract Number: \_\_\_\_\_

Name of Prime Contractor: \_\_\_\_\_ Project Name: \_\_\_\_\_

The undersigned intends to provide materials or supplies in connection with the above project as:

	Minority Business Enterprise		Women Business Enterprise
	Individual		A Corporation
	A Partnership		A Joint Venture

The undersigned is certified by the North Carolina Department of Administration or the North Carolina Department of Transportation and is headquartered or has a significant business presence within the Greensboro MSA.

The undersigned is prepared to provide the following materials and supplies (described below) in connection with the above project at the following price: \$ \_\_\_\_\_. Any changes in this commitment must be approved in advance by the M/WBE Office.

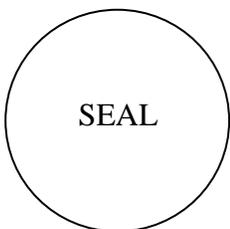
\_\_\_\_\_ % of the dollar value of the subcontract will be sub-let to (if applicable) \_\_\_\_\_ material suppliers or service organizations.

You have projected the following delivery for such material or supplies

Materials/Supplies	Delivery Date

This document shall not serve in a manner as an actual subcontract between the two parties. A separate binding agreement will describe in detail the contractual obligation of the contractor and the M/WBE subcontractor. The undersigned will enter into a formal agreement for the above items conditioned upon your execution of a contract with the City of Greensboro. Breach of this commitment constitutes breach of bidder's contract if awarded.

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Bidder in accordance herewith. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.



Company Name: \_\_\_\_\_  
 Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Title: \_\_\_\_\_  
 State of \_\_\_\_\_ County of \_\_\_\_\_  
 Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

Affidavit E

**Statement of Intent to Perform Work without Subcontracting**

We, \_\_\_\_\_, hereby certify that it is our intent to perform 100% of the work required for the \_\_\_\_\_ Contract.  
(Name of Project & Contract Number)

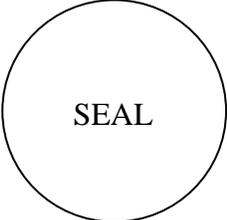
In making this certification, the Bidder, pursuant to Item VIII, Section B, states the following:

1. That it is a normal business practice of the Bidder to perform all elements of this type of contract with its own work forces without use of subcontractors.
2. That if it should become necessary to subcontract some portion of the work at a later date, the Bidder will notify the City of Greensboro and institute good faith efforts to comply with all requirements of the M/WBE program in providing equal opportunities to M/WBE firms to subcontract the work.
3. That the Bidder will provide equal opportunity for M/WBEs to participate in significant material supplier opportunities available under the prime contract and to document good faith efforts as required herein.

Accompanying this certification the undersigned shall provide conclusive documentation which serves to verify that it is, and has been, a normal business practice for the indicated firm to perform all elements of this type of contract with its own workforce and without the use of subcontractors. The documentation must demonstrate that the firm has sufficient employees, equipment, and bonding to perform the entire contract without the use of subcontractors and that it has previously performed contracts of similar scope and comparable cost without the use of subcontractors.

Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.

The undersigned hereby certifies that he or she has read the terms of this certification and is authorized to bind the Bidder to the commitment herein set forth. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.

	Date: _____ Name of Authorized Officer: _____
	Signature: _____ Title: _____
	State of _____ County of _____
	Notary Public _____ My commission expires: _____







Affidavit H

**Request for Waiver**

Contract Name: \_\_\_\_\_ Contract Number:  
\_\_\_\_\_

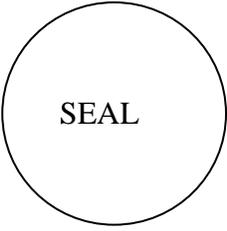
Contractor Name:  
\_\_\_\_\_

**No technical bid and cost proposal envelopes will be opened until all waivers have been decided and any subsequent requests for review acted upon.** A waiver request will be granted only upon a finding of adequate documentation of Good Faith Efforts by the Bidder to try to meet the M/WBE goal(s), a significant defect in the bidding process or a legal defect in the Program Element selected by the Goal Setting Committee

A Full ( ) or Partial ( ) waiver of compliance with the MWBE Program Element in the bid documents is requested based on the following:

- Subcontracting is inappropriate and will not provide a commercially useful function under the scope of the contract;
- There are no certified M/WBE firms that are qualified and available to provide the goods or services required; or
- There is a significant defect in the bidding process or legal defect in the Program Element selected by the Goal Setting Committee.

The undersigned declares that all required documentation in support of the waiver request is attached and complete. Signature and title of authorized official of the company and the date must be properly executed or this document will be deemed nonresponsive.

	Date: _____ Name of Authorized Officer: _____
	Signature: _____ Title: _____
	State of _____ County of _____
	Notary Public _____ My commission expires: _____