

**CITY OF FAYETTEVILLE
SDBE COMPLIANCE PROVISIONS**

SDBE CONTRACT PROVISIONS (CONSTRUCTION)

APPLICATION:

The requirements of the Small Disadvantaged Business Program for participation in the City of Fayetteville's construction contracts are hereby made a part of these contract documents. These requirements shall apply to all contracts regardless of ownership. Copies of the Program may be obtained from:

City of Fayetteville
Purchasing Division/DBE Compliance Officer
433 Hay Street
Fayetteville, NC 28301
Phone: (910) 433-1942
Fax: (910) 433-1680
E-mail: Ktoon@ci.fay.nc.us

SDBE COMPLIANCE REQUIREMENTS

1. The Bidder shall provide, **with the bid**, the SDBE CONTRACT PROVISIONS (CONSTRUCTION), properly executed which signifies that the Bidder understands and agrees to the incorporated SDBE contract provisions.
2. The Bidder shall provide **with the bid**:
 - Affidavit B – INTENT TO PERFORM CONTRACT WITH OWN WORKFORCE, in making this certification the Bidder states that the Bidder does not customarily subcontract elements of this type project and will perform all elements of the work with his/her own current work forces; **and**
 - IDENTIFICATION OF SMALL DISADVANTAGED BUSINESS PARTICIPATION – This certifies that on this project listed small disadvantaged business enterprises will be used as construction subcontractors, vendors, suppliers, or providers of professional services. Enter zero dollars indicating no SDBE's are being used with this project; or
 - Affidavit A – LISTING OF GOOD FAITH EFFORTS **AND** IDENTIFICATION OF SMALL DISADVANTAGED BUSINESS PARTICIPATION, as certification that those small disadvantaged businesses listed will be used on this project.
3. Upon being named apparent low Bidder, The Bidder shall provide:
 - Affidavit C – PORTION OF WORK TO BE PERFORMED BY SMALL DISADVANTAGED FIRMS, if the portion of the work to be executed by SDBE's is **equal to or greater** than 10% of the Bidders total contract price; or,
 - Affidavit D – GOOD FAITH EFFORTS, if the goal of 10% participation by SDBE's **is not** achieved.

All written statements, certifications or intentions made by the Bidder shall become part of the agreement between the Contractor and the City of Fayetteville for performance of this Contract. Failure to comply with any of these statements, certifications or intentions, or with the SDBE compliance provisions shall constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City of Fayetteville whether to terminate the contract for breach.

Subcontractor Payment Requirements:

North Carolina General Statutes 143-134.1 (N.C.G.S.) states that the percentage of retainage on payments may by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the City of Fayetteville to the prime contractor. Failure to comply with this provision shall be considered a breach of contract, and the contract may be terminated in accordance with the termination provisions of the contract.

The Contractor shall provide an itemized statement of payments to each SDBE subcontractor before final payment is processed.

Date: _____

(Name of Company)

(Signature)

Attest: _____

(Above Name Typed or Printed)

(Title)

**City of Fayetteville
Affidavit A – Listing of the Good Faith Efforts**

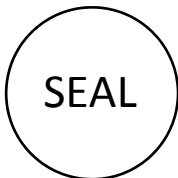
Affidavit of _____
(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:
(A minimum of 50 value points must be checked in order to have achieved a “good faith effort”)

- (1) Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 1 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. **Value = Ten (10) points.**
- (2) Making the construction plans, specification and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. **Value = Ten (10) Points.**
- (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation. **Value = Fifteen (15) points.**
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment or minority businesses. **Value= Ten (10) points.**
- (5) Attending any pre-bid meetings scheduled by the public owner. **Value = Ten (10) points.**
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. **Value = Twenty (20) points.**
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing. **Value = Fifteen (15) points.**
- (8) Providing assistance to an otherwise qualified minority business 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. Assisting minority businesses in obtaining the same unit pricing with the bidder’s suppliers in order to help minority businesses in establishing credit. **Value = Twenty-five (25) points.**
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible. **Value = Twenty (20) points.**
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. **Value = Twenty (20) points.**

In accordance with GS143-128.2 (d) the undersigned will enter into a formal agreement with the firms listed in the Identification of Small Disadvantaged 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 he or she has read the terms of the Small Disadvantaged Business Commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public
My commission expires _____

**CITY OF FAYETTEVILLE
SDBE COMPLIANCE PROVISIONS
AFFIDAVIT B
Intent to Perform Contract with Own Workforce**

Affidavit of

(Name of Bidder)

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

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type of project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and will complete all elements of this project without the use of subcontractors, materials suppliers or providers of professional services.

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____



THIS FORM IS NOT TO BE SUBMITTED WITH THE BID PROPOSAL

**CITY OF FAYETTEVILLE
SDBE COMPLIANCE PROVISIONS
AFFIDAVIT C**

PORTION OF THE WORK TO BE PERFORMED BY SMALL DISADVANTAGED FIRMS

If the portion of the work to be executed by small disadvantaged businesses as defined in G.S. 143-128.2(g) is equal to or greater than 10% of the Bidders total contract price, then them Bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive Bidder within **72 hours** after notification of being low Bidder.

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

_____ \$ _____
(Project Number) (Dollar Amount of Bid)

I will expend a minimum of _____% of the total dollar amount of the contract with small disadvantaged business enterprises. SDBE's will be employed as subcontractors, vendors, or providers of professional services. Such work will be subcontracted to the following firms listed below.

Name, Address, and Phone No.	*SDBE Category	Description	Dollar Value	% of Contract

*SDBE categories: Black-African Americans (B), Hispanic-Americans (H), Asian-Americans (A), Native-Americans (I), Women (F), Socially/Economically Disadvantaged (D)

Pursuant to G.S. 143-128.2(d), the undersigned will enter into a formal agreement with small disadvantaged 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 or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public

My commission expires _____

CITY OF FAYETTEVILLE

**SDBE COMPLIANCE PROVISIONS
AFFIDAVIT D**

Good Faith Efforts

If the goal of 10% participation by small disadvantaged businesses is not achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts.			
			Value

*SDBE categories: Black-African Americans (B), Hispanic-Americans (H), Asian-Americans (A), Native-Americans (I), Women (F), Socially/Economically Disadvantaged (D)

Documentation of the Bidder’s good faith efforts to meet the goals set forth in these provisions. Examples of documentation shall include the following evidence:

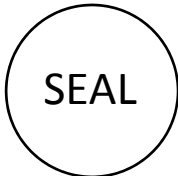
- A. Copies of solicitation for quotes to small disadvantaged business firms. Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up call to each firm sent a solicitation.
- D. For subcontracts where a small disadvantaged business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contracts or correspondence to small disadvantaged businesses, community or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for small disadvantaged businesses.
- H. Letter detailing reasons for rejection of a small disadvantaged business due to lack of qualification.
- I. Letter documenting proposed assistance offered to small disadvantaged businesses in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public
My commission expires _____

CITY OF FAYETTEVILLE

**SDBE COMPLIANCE PROVISIONS
AFFIDAVIT E**

SDBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor: _____

Address and Phone: _____

Project Name: _____

Pay Application # _____ Period: _____

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

Firm Name and Address	*SDBE Category	Payment	Owner Use Only

*SDBE categories: Black-African Americans (B), Hispanic-Americans (H), Asian-Americans (A), Native-Americans (I), Women (F), Socially/Economically Disadvantaged (D)

Date: _____

Approved/Certified By: _____

(Name)

(Title)

(Signature)

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

**CITY OF FAYETTEVILLE
SDBE COMPLIANCE PROVISIONS**

Identification of Small Disadvantaged Business Participation

I, _____
(Name of Bidder)

do hereby certify that on this project, we will use the following small disadvantaged business enterprises as construction subcontractors, vendors, suppliers or providers of professional services.

Firm Name, Address and Phone No.	Description	*SDBE Category

*SDBE categories: Black-African Americans (B), Hispanic-Americans (H), Asian-Americans (A), Native-Americans (I), Women (F), Socially/Economically Disadvantaged (D)

The total value of small disadvantaged business contracting will be (\$)_____.