

**CITY OF EVANSTON SPECIFICATION FOR
MINORITY, WOMEN & EVANSTON BUSINESS
ENTERPRISE PARTICIPATION**

I. POLICY

- A. It is the policy of the City of Evanston to provide contracting and subcontracting opportunities to Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) and Evanston Businesses Enterprises (EBEs). In complying with these policies, Bidders are required to take affirmative steps to assure that MBEs, WBEs, and EBEs are used to supply equipment, products, construction related services, and professional services. Please note: the City of Evanston references **49 Code of Federal Regulations Part 26** to evaluate compliance with the provisions of this Specification for M/W/EBE Participation.
- B. It is the policy of the City of Evanston that, in consideration of the award of this contract, the bidder shall utilize Minority, Women and Evanston owned businesses to perform no less than 25% of the awarded Contract. The City of Evanston strongly encourages a minimum 3% utilization of EBEs (**see attached Ordinance 8-O-01 for EBE definition**).
- C. The documentation identified in item IV. A must be submitted for our records.
- D. M/W/EBE Contractor "Self Performance": In the event an MBE, WBE, and/or EBE is awarded the contract, the firm must perform no less than 25% of the total contract work with their own resources. For example, if the contract value totals \$400,000 the MBE, WBE and/or EBE prime contractor must perform at least \$100,000 of the job with its own labor, materials, etc.

II. MBE, WBE and EBE Participation and Credit

- A. A list of firms located in Evanston is available from the City of Evanston's, Business Development Coordinator. The City of Evanston, however, makes no representation as to such firms' capabilities.

Bidders should also consult the directories and lists of certified Minority and/or Women owned firms distributed by the following agencies: the City of Chicago, the Illinois Department of Transportation, the Women's Business Development Center, the Chicago Minority Business Development Council, Cook County, the Illinois Business Enterprise Program, Black Contractors United, Federation of Women Contractors or the Hispanic American Construction Industry Association.

ALL MBE, WBE and EBE FIRMS MUST COMPLETE THE AFFIDAVIT OF MBE, WBE and EBE STATUS AND SUBMIT APPLICABLE CERTIFICATIONS.

- B. An MBE's, WBE's and EBE's participation will be credited at 100% if used as:
 - 1. A prime contractor

2. A joint venture partner with at least 25% interest
 3. A subcontractor using its own resources
 4. An equipment lessor
- C. Material purchases from an MBE, WBE and/or EBE supplier, fabricator or manufacturer will be credited as follows:
- a. 60% of the subcontract value for materials from an MBE, WBE and EBE supplier that regularly deals the product in the normal course of business.
 - b. 100% from an MBE, WBE and/or EBE manufacturer.
 - c. 100% from an MBE, WBE and/or EBE fabricator; or from an MBE, WBE and/or EBE supplier that substantially alters or changes the material before resale to a contractor.
- D. Services such as surveying, site clean up and security will be credited at 100%.
- E. Other expenditures made to MBEs, WBEs and EBEs are subject to City approval in so far as they are allowable credits for participation in the project.

III. PRE-CONTRACT AWARD OBLIGATIONS

Bidders are required by the City of Evanston to advertise subcontracting opportunities in the Dodge Report or legal notice section of a newspaper of general circulation in the Chicago Metropolitan area such as, the Chicago Tribune or the Chicago Sun Times, for two consecutive days not less than 10 working days prior to the day of bid opening. The notice must include a definitive evaluation method for the proposals or quotations submitted by Minority, Women and Evanston firms. These criteria must not be restrictive or exclusionary (see “**Suggested Advertisement for M/W/EBE Participation**”). Please note: the requirement for advertising for M/W/EBE participation is waived if the bidder complies with the policy statement of Section I.B above without advertising.

IV. PRE-CONTRACT AWARD EVALUATION OF MBE/WBE/EBE UTILIZATION

- A. To demonstrate compliance with the City of Evanston’s MBE/WBE/EBE utilization policy, Bidders shall provide the following items with their bid.

FAILURE TO SUBMIT THE DOCUMENTATION OUTLINED IN ITEMS A.1 THROUGH A.6 SHALL CAUSE THE BID TO BE DETERMINED NON-RESPONSIVE AND REJECTED.

1. Bidder must submit a completed, signed and notarized affidavit entitled “*Letter of Intent to Comply with the City of Evanston’s M/W/EBE Policy.*” This form indicates the Bidder’s intention to utilize MBEs, WBEs and EBEs in accordance with the policy outlined herein. This document also includes a declaration regarding the Prime’s lack of controlling interest in the M/W/EBE firm.

2. *“Certificate of Publication”* setting forth the dates of publication and a copy of the Dodge Report Notice or the newspaper notice.
3. A completed, signed and notarized Schedule A entitled *“M/W/EBE Utilization Plan.”* The plan includes a description, the percentage and the dollar value of the work to be performed by the scheduled MBE, WBE and/or EBE firms. Note: Schedule A should clearly demonstrate the required 25% MBE/WBE/EBE participation.
4. Completed, signed, and notarized Schedule B entitled *“Letter of Intent to Perform.”* This form must be submitted for each firm listed on Schedule A and should be signed by the Bidder and the MBE or WBE or EBE and notarized. Additionally it must describe the work to be performed with the corresponding subcontract dollar amount. The information on Schedule B must match the information on Schedule A.
5. Schedule C entitled *“Affidavit of Joint Venture (MBE/WBE/EBE)”* must be submitted for a joint venture between an MBE or WBE or EBE and a non MBE/WBE/EBE. This form need not be submitted if all joint venturers are MBEs, WBEs and/or EBEs. In such a case, a written joint venture agreement between the MBE, WBE and EBE partners must be submitted. In all proposed joint ventures, each MBE, WBE and/or EBE partner must submit a copy of their current Certification Letter.
6. Completed, signed, and notarized *“Affidavit of MBE/WBE/EBE Status”* from the scheduled firms attesting that they are an MBE, WBE or EBE. *Please note that an MBE or WBE cannot receive MBE or WBE participation credit in a specialty area for which the MBE or WBE is not certified.*

COPIES OF MBE AND WBE CERTIFICATIONS FROM VARIOUS AGENCIES MUST BE ATTACHED TO THE AFFIDAVITS. EBE STATUS WILL BE VERIFIED BY THE CITY OF EVANSTON BUSINESS DEVELOPMENT OFFICE.

OR BIDDERS MAY SUBMIT

7. A completed *“M/W/EBE Participation Waiver Request”* and the *“Certification of Publication”* as described in item 2 above.

V. WAIVER REQUIREMENTS

- A. If the bidder has acted in accordance with the policy outlined herein, but is unable to achieve the required MBE/WBE/EBE participation, the Bidder must seek a waiver or modification of the utilization percentage by submitting *“M/W/EBE Participation Waiver Request.”* The City of Evanston’s Business Development Coordinator (BDC) will determine if the request shall be granted.
- B. Upon request from the City, the Bidder has 10 calendar days to submit supporting documentation for the waiver request to the BDC. The Bidder’s failure to provide sufficient documentation to support the waiver or modification request will cause the bid/proposal to be found non-responsive by the City and the bid will be rejected. The documentation used in the consideration of the waiver request must include but not be

limited to a summary of the contact made, copies of correspondence, phone logs and certified mail receipts, etc.

C. For the MBE/WBE/EBE waiver or modification request to receive consideration, the following information must be submitted within the time frame noted above:

1. A narrative describing the Bidder's efforts to secure Minority, Women and Evanston Business Enterprise Participation prior to bid opening.
2. In instances where the Bidder has not received inquiries or proposals from qualified Minority, Women and Evanston owned businesses in response to the required advertisement prior to bid opening, the Bidder must provide a notarized affidavit attesting to this circumstance.
3. Names (of owners), addresses, telephone numbers, date and time of contact and method of contact of qualified Minority, Women and Evanston owned businesses who submitted proposals to the Bidder as a result of the advertisement but were not found acceptable. Detailed reasons and justifications for each non-acceptance must be provided.
4. Names (of owners), addresses, telephone numbers, date and time of contact of at least 15 qualified Minority, Women and Evanston owned businesses the Bidder solicited for proposals for work directly related to the advertised Bid, prior to the bid opening. (Copies of letters and proof of mailing must be attached).

The direct solicitation to businesses must include specific project information and the type of work sought.

D. To determine whether or not the Bidder should be granted a waiver request, the City may, in addition to the information provided for in V.C. above, request verification that consideration was given to the following areas while the Bidder attempted to achieve MBE/WBE/EBE participation.

1. That the work slated for MBE/WBE/EBE participation is real in scope and was selected to increase the likelihood of achieving the stated utilization percentage;
2. That potential MBEs/WBEs/EBEs were negotiated with in good faith.
3. That conditions were not imposed on MBEs/WBEs/EBEs that were not also imposed on all other subcontractors; and
4. That benefits ordinarily conferred on subcontractors for the type of work were not denied to the MBEs/WBEs/EBEs.

VI. POST-CONTRACT AWARD COMPLIANCE

- A. Within 15 calendar days after the Notice to Proceed has been issued to the Contractor, copies of subcontracts between the MBE, WBE EBE and the prime contractor must be submitted to the BDC.
- B. The Contractor shall utilize the MBEs, WBEs, and EBEs listed on Schedule A and submitted with the bid to provide the work, materials and/or services indicated, unless said firm(s) cannot provide the work, materials and/or services:
 - 1. In a timely manner for completion of the work in accordance with the project schedule;
 - 2. To the standards of quality set forth in the Contract documents; and/or;
 - 3. For the price originally quoted to the Contractor in preparing the Bid.

OR

- 4. Because of substantial changes (approved by the City of Evanston) in the scope of work that will materially reduce or eliminate the scheduled work for the firms listed on the Schedule A, M/W/EBE Utilization Plan.
- 5. A monthly M/W/EBE Participation Summary is required for projects that will exceed three months duration. The summary shall state in the upper right corner, the report number, the name of the general contractor, the project name and total cost. The report format, by columniation, should define prime contractors, their trades and the dollar amount of each executed contract. Further, M/W/EBE subcontractors shall be listed in conjunction with their primes, the dollar amount awarded for each executed contract and the M/W/EBE percentage. The dollar amount awarded to each classification, i.e., MBE/WBE/EBE should be itemized at the bottom of the Summary then aggregated to reflect the total dollar amount and percentage of MWEBE participation (**see M/W/EBE Participation Summary**).

Any and all proposed changes to the Schedule A, M/W/EBE Utilization Plan must be promptly reported to the BDC. Appropriate corresponding documentation must clearly explain the reasons for the change in accordance with the circumstances outlined in items VI. B1 to VI. B4 noted above. The explanation must set forth with particularity the Contractor's efforts to prevent any project-related delays or problems.

The documentation shall also include information on any proposed substitutions and a plan demonstrating how the Contractor intends to meet the City of Evanston's M/W/EBE policy.

The documentation will be reviewed for its acceptability and the Business Development Coordinator will outline any necessary corrective actions to be taken. If the contractor fails to initiate and complete such actions in a timely manner, the appropriate sanctions will be taken. The City of Evanston's decision regarding the

Contractor's request for a change, acceptability of and corrective action to be and as taken shall be final.

If there is inappropriate non-utilization or reduced utilization, the City of Evanston will advise the Contractor, in writing, of corrective actions to be taken. Again, if the Contractor fails to initiate and promptly complete such actions, the City of Evanston will institute appropriate sanctions.

- C. All payment requests made to the City of Evanston must include a cumulative M/W/EBE *Utilization Report* on a monthly basis that will be forwarded to the M/W/EBE Business Development Coordinator. The reports must demonstrate compliance with the commitments or include an explanation as to when and how compliance will be achieved. The City may request additional information that demonstrates compliance including, but not limited to waivers of lien, invoices and delivery tickets. Failure to submit the requested information will result in the appropriate sanctions.

VII. NON-COMPLIANCE

Compliance with the MBE, WBE and EBE policy is considered at three stages: initial, interim, and final. Initial compliance includes the commitment to utilize the scheduled firms by including the required documentation at the time of bid submission. Interim compliance includes the utilization of these firms during the course of the project as verified with on site visits, monthly utilization reports, partial waivers of lien, etc. Final compliance is based upon the final amounts paid to the scheduled MBE, WBE and/or EBE as determined by all partial and/or final waivers of lien and/or cancelled checks, or other documentation as requested by the City and provided by the Contractor to indicate the scheduled firm(s) were utilized and compensated accordingly.

Repeated failure to comply with commitments to achieve MBE, WBE and EBE utilization may result in a suspension of bidding privileges with the City of Evanston. Additionally, any matters that appear to be fraudulent will be referred to the Illinois Attorney General or other appropriate law enforcement agency or agencies.

The City of Evanston maintains the right to review the books, records and files relative to MBE, WBE and EBE utilization on this contract and the Contractor agrees to promptly and fully comply with any and all such requests.

Any questions regarding MBE, WBE and EBE compliance are to be directed to Lloyd W. Shepard, Business Development Coordinator, at 847/448-8078. Assistance with identifying M/W/EBE capabilities for construction trades, architects, engineers, landscaping, etc., can be directed but not limited to M/W/EBE Construction Contractor Assistance Organizations in the attached outline.

Please note below under the Evanston City Code, Title 1, Chapter 17, Section 1 is the definition of and Evanston Business Enterprise Section 1-17-1-B(1) and the Local Employment Program (LEP) Section 1-17-1-C. Projects applicable to the LEP will be noted in the solicitation to bid and the pre-bid meeting.

EVANSTON CITY CODE

TITLE 1, CHAPTER 17, SECTION 1

1-17-1: PURCHASES OF GOODS OR SERVICES:

(A) All contracts for the purchase of goods or services costing in excess of twenty thousand dollars (\$20,000.00) to be utilized in the conduct of the affairs of the city, shall be let by the city manager or his or her designee, with the approval of the city council, to a reliable, responsible and acceptable bidder, after advertising for the same, and bonds to be approved by the city council may be taken for the faithful performance thereof. The city manager, or his or her designee, may reject all bids and shall subsequently advise the city council of his or her action or, with the approval of the city council, may award the contract to a bidder other than the lowest bidder if it should be determined that such action would be in the best interest of the city. Any such contract may also be entered into by the proper officers without advertising for bids upon the authorization of the city council by a vote of two-thirds (2/3) of all aldermen then holding office. Notwithstanding the above, the city manager or his or her designee shall have the authority to make purchases in excess of twenty thousand dollars (\$20,000.00) without prior council approval when there is an imminent threat to the property of the city or its citizens or the health and welfare of its citizens; or when there is a substantial economic benefit to the city not otherwise obtainable; providing, however, that a report of said purchase shall be promptly made to the city council. All other contracts for the provision of goods or services to be utilized in the conduct of the affairs of the city shall be let by the city manager or his or her designee to a reliable, responsible person, firm or agency without the necessity of advertising for bids, or of obtaining prior city council approval. Bonds may be taken for faithful performance of such contracts. This provision shall not apply to contracts for work, material or supplies to be paid in whole or in part by special assessment. (Ord. 88-0-05)

(B) All contracts for the purchase of goods or services with entirely city funds shall be awarded to the lowest quote/bid price or lowest evaluated quote/bid price from a responsive and responsible Evanston business enterprise ("EBE") provided the EBE's quote/bid price does not surpass the lowest quote/bid price or lowest evaluated quote/bid price from a responsive and responsible nonlocal business by more than five percent (5%).

All contracts let from requests for proposals (RFP's) and requests for qualifications (RFQ's) with entirely city funds shall be awarded to the most qualified consultant that is an EBE, provided the EBE price/cost does not surpass the lowest price/cost or lowest evaluated price/cost from a nonlocal business by more than five percent (5%).

1. An "EBE" shall mean an entity which is located in or has one or more offices located in the city for a minimum of one year and which performs a "commercially useful function".

a. An EBE 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, managing, and supervising the work involved. To perform a commercially useful function, the EBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an EBE is performing a commercially useful function, the city will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the EBE credit claimed for its performance of the work and other relevant factors.

b. An EBE 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 EBE participation. In determining whether an EBE is such an extra participant, the city will examine similar transactions, particularly those in which EBEs do not participate.

c. If an EBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the EBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, then it is not performing a commercially useful function.

d. When an EBE is presumed not to be performing a commercially useful function as provided in subsection (B)1c of this section, the EBE may present evidence to rebut this presumption. The city may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

2. In determining whether a business has been located in Evanston for one year, the MWEBE committee will consider the following:

a. Whether the vendor pays property and/or sales taxes in Evanston; and

b. Whether the business entity's address or the address given on the federal and/or state income tax return is within Evanston.

c. The date of issuance of an Evanston business license.

The city may waive the one year requirement if the entity provides evidence of a substantial commitment to Evanston.

3. Businesses that maintain a distribution warehouse or which manufacture in Evanston will receive EBE credit of sixty percent (60%) and one hundred percent (100%), respectively. Those that do not maintain a distribution warehouse or manufacturing operation but have an office in Evanston will be considered a broker and receive a five percent (5%) credit.

4. Eligibility as an EBE will be periodically reviewed and may be revoked at any time if the entity no longer meets the above requirements. (Ord. 100-0-05)

(C)Local Employment Program:

1. Definitions: For the purposes of this subsection (C), the local employment program, the following terms shall be defined as follows:

CONTRACT: The written agreement to provide services established between the city and a contractor, including, but not limited to, a redevelopment agreement between the city and any contractor or party.

CONTRACTOR: An individual, partnership, corporation, joint venture or other legal entity entering into a contract, or a subcontract of whatever tier, for a public works project.

DESK REVIEW: A method of monitoring compliance with the local employment program in which the business development coordinator contacts a contractor or subcontractor to gather relevant information or request relevant documentation.

EMERGENCY WORK: Work necessitated by an imminent threat to the property of the city or the health, safety, or welfare of its citizens.

GENERAL CONTRACTOR: An entity that enters into a contract directly with the city. The general contractor may also be known as the prime contractor.

LOCAL RESIDENT DATABASE: A database maintained by the city's business development coordinator containing the names of local residents who have expressed interest in employment on city public works projects.

NEW HIRE: Any employee of a contractor who is not listed on the contractor's last quarterly tax statement and was hired prior to or during the commencement of work on a public works project contract subject to the requirements of the local employment program.

ON SITE MONITORING: The business development coordinator's act of visiting the site of a public works project to ensure compliance with the requirements of the local employment program.

PUBLIC WORKS PROJECT: Any construction, alteration, demolition, or repair work done under contract and paid for in whole or in part from city funds.

RESIDENT: Any person whose domicile is in the city. The domicile is an individual's one and only true, fixed and permanent home and principal establishment. In order to qualify as a resident for purposes of the local employment program, an individual must have established domicile within the city at least thirty (30) days prior to commencing work on any public works project subject to the local employment program.

SUBCONTRACT: A contract that exists between the general contractor and a subcontractor or between subcontractors of any tier.

SUBCONTRACTOR: An entity that enters into a contract with the general contractor or another subcontractor.

TIER: The level of relationship to the prime contractor of a subcontractor who enters into a contract under a prime contractor or another subcontractor to perform a portion of the work on a project.

2. Work Hours And New Hire Requirements:

a. Unless prohibited by federal, state, or local law, all contractors entering into contracts with the city for public works projects valued at five hundred thousand dollars (\$500,000.00) shall ensure that:

(1) Fifteen percent (15%) of the total work hours are performed at the construction site by city of Evanston residents, as laborers and/or trade persons; and

(2) A minimum of one Evanston resident is hired.

b. The effectiveness of the local employment program regarding the minimum percentage of work hours and residents hired will be evaluated by city staff after two (2) years of implementation.

c. These requirements shall bind the contractor both with respect to persons working directly for the contractor and to subcontractors, regardless of tier or phase of the project, hired to perform any portion of the contracted work. The contractor shall ensure that subcontractors comply with the requirements of the local employment program. It shall be the responsibility and obligation of the contractor that all contracts are in overall compliance with this subsection (C) and all the requirements listed herein.

d. Requirements of the local employment program are satisfied if the contractor already employs Evanston residents sufficient to meet fifteen percent (15%) of the project's total work hours. Some or all of these requirements may be waived if a waiver is obtained from the city pursuant to subsection (C)5 of this section.

3. **Contracts, Bid Documents, Subcontracts:** Where appropriate and consistent with law, contracts and bid documents shall incorporate the local employment program by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contract or subcontract entitling the city to all the remedies and damages available for material breach of a contract. All subcontracts shall expressly acknowledge the city's status as a third party beneficiary to the subcontract and further expressly acknowledge that the city, as a third party beneficiary, shall have the right to enforce the provisions of the local employment program. Contracts and bid documents shall require bidders, contractors

and subcontractors to maintain records necessary for monitoring their compliance with the local employment program.

4. Automatic Review: This subsection (C) shall be reviewed to address any deficiencies on or about December 31, 2010.

5. Waiver:

a. The contractor may request that the business development coordinator waive all or a portion of the requirements imposed under the local employment program. Such requests must be in writing and must be received by the business development coordinator prior to the award of any public works project contract. In order to apply for a waiver, the contractor must submit:

(1) Documentation to the business development coordinator demonstrating that:

A. The contractor utilized the local resident database to attempt to satisfy the local employment program hiring requirement.

B. The contractor notified residents of the employment opportunities available for the project. Such notification must have appeared in the employment section of a newspaper of local general circulation. Additionally, the Illinois department of employment security's office located in Evanston, Illinois, must have been notified of the employment opportunities. All notices must have stated that all qualified applicants would receive consideration without regard to race, color, religion, sex or national origin.

C. The contractor, for a contract utilizing union labor, contacted in writing Chicagoland labor unions to request a resident for employment on the project.

(2) Any additional documents requested by the business development coordinator in order to evaluate the waiver request.

b. The business development coordinator shall determine, based on the required documentation and conditions cited by the contractor that make compliance unfeasible, whether to grant the waiver prior to the award of the contract. Examples of such conditions include, but are not limited to:

(1) Intermittent service by one trade throughout the life of the project.

(2) Nonavailability of resident(s) necessary to fulfill craft position(s) required for the project.

c. If circumstances arise subsequent to the issuance of the contract, the results of which the contractor believes will prevent satisfying the local employment program requirements, the contractor will immediately notify the business development coordinator by requesting in writing a waiver of the percentage that cannot be met. The business development coordinator or his or her designee shall meet with the

applicant as necessary and issue a decision within five (5) business days, including a determination as to any retroactive liability for failure to achieve the goals for work undertaken prior to the application for such a waiver.

6. Local Resident Database: In order to satisfy the work hours and/or new hire requirements of the local employment program, contractors working under a collective bargaining agreement shall contact the appropriate local union hall to request a resident. If a resident is not available for dispatch by that union hall, the contractor shall contact the business development coordinator or his or her designee to request an available Evanston resident. The business development coordinator or his or her designee will thereafter provide the name of a resident matching the qualifications defined by the contractor to the local union hall and that resident will be dispatched to the contractor within three (3) business days in accordance with the lawful hiring hall rules of the respective union.

In order to satisfy the work hours and/or new hire requirement of the local employment program, contractors working in the absence of a collective bargaining agreement shall contact the business development coordinator or his or her designee to request an available Evanston resident from the local resident database. The business development coordinator or his or her designee will provide the name of a resident matching the qualifications identified by the contractor within three (3) business days.

7. Reporting Requirements: The contractor shall submit reports as required by the city in order to comply with the local employment program. These reports may include weekly certified payroll records for all crafts within five (5) working days of the end of each payroll period. Additionally, the city may require a weekly or monthly summary of the information that would be obtainable from the certified payroll regarding local hire by craft. These reports, if required, must show the person-hours on a laborer and/or trade person basis and, in the case of certified payroll records, identify the address, new hires, and trade and status (journey person or apprentice) of all employees on the project. All reports must have an original signature and be signed by an authorized officer of the company under penalty of perjury. The city will make a copy of all required forms available to contractors.

Nothing in the local employment program is intended to eliminate the requirement of a contractor to maintain certified payrolls or of the subcontractors to provide certified payrolls to the contractor, or for any contractor to provide certified payrolls to any party that requests them, as required under Illinois state law.

8. Monitoring: The business development coordinator or his or her designee will monitor compliance with the requirements of the local employment program by means including, but not limited to, desk reviews or on site monitoring. Audits of compliance may require the review of documents such as certified payrolls, canceled checks, or quarterly wage and withholding reports. Full scale investigations of noncompliance or violations will be on an as needed basis as determined by the business development coordinator.

A contractor that fails to provide requested documents or misrepresents material facts in such documents shall be deemed to be noncompliant with the local employment program.

9. Post-Award Meeting: At its discretion, the business development coordinator or his or her designee may require the contractor to attend a post-award meeting to familiarize the contractor with the local employment program requirements. If requested by the contractor post-award, or at any time during the project, the city shall hold such a meeting within ten (10) business days.

10. Penalty: If the contractor or subcontractor should fail to meet the total percentage of resident project hours due to a resident termination or resignation, the contractor or subcontractor shall immediately notify the business development coordinator of this occurrence within two (2) business days. Subsequently, the contractor or subcontractor shall have five (5) additional business days to replace a terminated or resigned worker with another resident. If the contractor or subcontractor fails to make the replacement or to notify the business development coordinator of this occurrence, the offending party will be fined one hundred dollars (\$100.00) per day for each day of noncompliance to be deducted from final payment on the contract. If the noncompliant contractor makes a good faith effort to replace the resident, the fine will be waived. (Ord. 89-0-08)

SCHEDULE C: Affidavit of Joint Venture (MBE/WBE/EBE)

This form need not be submitted if all joint venturers are MBEs, WBEs and/or EBEs. In such a case, a written joint venture agreement between the MBE, WBE and EBE partners must be submitted. In all proposed joint ventures, each MBE or WBE partner must submit a copy of their current Certification Letter. EBE status will be verified by the City of Evanston.

All information requested by this Schedule must be answered in the spaces provided. Do not refer to your joint venture agreement except to expand on answers provided on this form. If additional space is required additional sheets may be attached. Please note: the City of Evanston references 49 CFR Part 26 to evaluate compliance with the provisions of Schedule C: Affidavit of Joint Venture (MBE/WBE/EBE).

I. Name of joint venture: _____
Address of joint venture: _____

Phone number of joint venture: _____

II. **Identify each MBE/WBE/EBE joint venture partner(s)**
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning MBE/WBE compliance: _____

III. **Identify each non-MBE/WBE/EBE joint venture partner(s)**
Name of Firm: _____
Address: _____
Phone: _____

Contact person for matters concerning MBE/WBE compliance:

Describe the role(s) of the MBE, WBE and/or EBE partner(s) in the joint venture

IV. **Attach a copy of the joint venture (JV) agreement. The JV agreement shall comply with 49 CFR Part 26 Section 26.55, Provision (b).**

In order to demonstrate the MBE, WBE and/or EBE joint venture partner's share in the ownership, control, and management responsibilities, and the partner's risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBE/EBE's own forces; (3) work items to be performed under the supervision of the MBE/WBE/EBE joint venture partner; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE/EBE to be dedicated to the performance of the project.

V. **Ownership of the Joint Venture**

What are the percentage(s) of MBE/WBE/EBE ownership of the joint venture?

MBE/WBE/EBE ownership percentage(s) _____

Non-MBE/WBE/EBE ownership percentage(s) _____

A. Specify MBE/WBE/EBE percentages for each of the following (provide narrative descriptions and other detail as applicable):

1. Profit and loss sharing: _____

2. Capital contributions:

a. Dollar amounts of initial contribution:

b. Dollar amounts of anticipated on-going contributions:

3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each joint venture partner:

4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control:

5. Provide copies of all written agreements between joint venture partners concerning this project.

6. Identify each current City of Evanston contract, and each contract completed during the past two years by a joint venture of two or more firms participating in this joint venture:

VI. Control of and Participation in the Joint Venture

Identify by name and firm those individuals who are, or will be responsible for, and have the authority to engage in the following management functions and policy decisions. Indicate any limitations to their authority such as dollar limits and co-signatory requirements:

A. Joint venture check signing:

B. Authority to enter contracts on behalf of the joint venture:

C. Signing, co-signing and/or collateralizing loans:

Acquisition of lines of credit:

D. Acquisition and indemnification of payment and performance bonds:

E. Negotiating and signing labor agreements:

F. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations:

2. Major purchases:

3. Estimating:

4. Engineering:

Any material misrepresentation will be grounds for terminating any contract that may be awarded and for initiating action under federal and state laws regarding false statements.

Note: If after filing this Schedule C and before the completion of the joint venture's work on the project, there is any change in the information submitted, the joint venture must submit a revised version of this document to the City of Evanston either directly, or through the prime contractor if the joint venture is a subcontractor.

| | |
|---|---|
| _____ Name of MBE/WBE/EBE Partner Firm | _____ Name of non-MBE/WBE/EBE Partner Firm |
| _____ Signature of Affiant | _____ Signature of Affiant |
| _____ Name and Title of Affiant | _____ Name and Title of Affiant |
| _____ Date | _____ Date |

On this _____ day of _____, 20____, the above signed officers

_____,
(names of affiants)

personally appeared and known to me, are the persons described in the foregoing Affidavit, who acknowledged that they executed the same in the capacity herein above stated and for the purpose herein above contained.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

Signature of Notary Public

(SEAL)

Commission Expires: _____

**LETTER OF INTENT TO COMPLY WITH
THE CITY OF EVANSTON'S
M/W/EBE POLICY**

I am _____ of _____, and have
(Title of Affiant) (Name of Firm)

authority to execute this affidavit on behalf of this firm. I _____
(Name of Affiant)

do hereby certify that:

1. This firm will endeavor to award subcontracts having a combined value of at least 25% of the total contract to MBEs, WBEs or EBEs for the procurement of equipment, materials, supplies and/or services required in the performance of this Contract.
2. Neither this firm nor its partners, directors and/or officers has a controlling interest, a conflict of interest, or any other authority to control the activities of the scheduled M/W/EBE firms.

Please note: the City of Evanston references 49 Code of Federal Regulations Part 26 to evaluate compliance with the provisions of this Specification for M/W/EBE Participation.

Signature: _____
(Signature of Affiant)

Date: _____

Corporate Seal (where appropriate)

This instrument was acknowledged before me on this _____ day of _____, by _____ as President (or other authorized officer) of _____.
(Firm Name)

(Notary Public Signature)

Notary Seal

Commission Expires: _____

SCHEDULE A M/W/EBE Utilization Plan

The following firms will be utilized in accordance with the Letter of Intent to Comply:

| Name of Firm | % of Participation | MBE, WBE or EBE? | Description of work | Dollar Value | Perform 100%?* |
|--------------|--------------------|------------------|---------------------|--------------|----------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| TOTAL | | | | | |

***If the firm is subcontracting more than 10% of its work, an explanation must be provided.**

If more than five firms are utilized, please duplicate the form and attach the additional information. (Total and notarization can appear on last page of multiple forms.)

Please note: the City of Evanston references 49 Code of Federal Regulations Part 26 to evaluate compliance with the provisions of this Specification for M/W/EBE Participation.

Certification letters for minority-owned and women-owned businesses must be included to be considered for participation.

Signed: _____

Date: _____

Corporate Seal (where appropriate)

This instrument was acknowledged before me on this _____ day of _____, by _____ as President (or other authorized officer) of _____ (Firm Name).

(Notary Public Signature)

Notary Seal

Commission Expires: _____

**SCHEDULE B:
Letter of Intent to Perform**

I am _____ of _____, and have
(Title of Affiant) (Name of M/W/EBE Firm)

authority to execute this affidavit on behalf of this firm. I _____
(Name of Affiant)

do hereby certify that:

_____ intends to participate as a
(Name of M/W/EBE Firm)

Subcontractor on the project known as _____.
(Project Description)

The Prime Contractor, _____, will award a contract to my
firm in the amount of \$_____ for _____.
(Type of Work)

This notification is pursuant to the Prime Contractor's receipt of an executed agreement
with the City of Evanston.

Signed: _____
(M/W/EBE Subcontractor)

Date: _____

Signed: _____
(Bidder/Prime Contractor)

Date: _____

Corporate Seals (where appropriate)

This instrument was acknowledged before me on this _____ day of
_____, by _____ as President
(or other authorized officer) of _____.
(Firm Name)

(Notary Public Signature)

Notary Seal

Commission Expires: _____

AFFIDAVIT OF M/W/EBE STATUS

I am _____ of _____, and have authority to
(Title of Affiant) (Name of Firm)

execute this affidavit on behalf of this firm. I _____ do
(Name of Affiant)

hereby certify that:

1. This firm is a: (Check One Only)

_____ Minority Business Enterprise (MBE) (A firm that is at least 51% owned, managed and controlled by a Minority.)

_____ Women's Business Enterprise (WBE) (A firm that is at least 51% owned, managed and controlled by a Woman.)

_____ Evanston Business Enterprise (EBE) (A firm located in Evanston for a minimum one year and which performs a "commercially useful function".)

Please note: 49 CFR Part 26 is used to evaluate compliance with the provisions of this specification.

2. **COPIES OF ALL MBE OR WBE CERTIFICATIONS HAVE BEEN ATTACHED.**

3. The following information will be provided upon written request, through the prime contractor or, if no prime, directly to the City of Evanston

- a) actual work performed on any project and the payment thereof; and,
- b) any proposed changes, in the status of the firm which would render this affidavit null and void.
- c) further verification of the indicated status

Signature: _____
(Signature of Affiant)

Date: _____

Corporate Seal (where appropriate)

This instrument was acknowledged before me on this _____ day of _____, by _____ as President (or other authorized officer) of _____.
(Firm Name)

Notary Seal

(Notary Public Signature)

Commission Expires: _____

M/W/EBE PARTICIPATION WAIVER REQUEST

I am _____ of _____, and have authority to
(Title of Affiant) (Name of Firm)

execute this certification on behalf of the firm. I _____ do
(Name of Affiant)

hereby certify that this firm seeks to waive all or part of this M/W/EBE participation goal

for the following reason(s): **(CHECK ALL THAT APPLY. SPECIFIC SUPPORTING DOCUMENTATION
MUST BE ATTACHED.)**

1. No M/W/EBEs responded to our invitation to bid. _____
2. An insufficient number of firms responded to our invitation to bid. _____
3. No subcontracting opportunities exist. _____
4. M/W/EBE participation is impracticable. _____

Please provide a written explanation of why M/W/EBE participation is impracticable.

Therefore, we request to waive _____ of the 25% utilization goal for a revised goal of _____%.

Signature: _____
(Signature of Affiant)

Date: _____

Corporate Seal (where appropriate)

This instrument was acknowledged before me on this _____ day of _____, by _____ as President
(or other authorized officer) of _____.
(Firm Name)

Notary Seal

(Notary Public Signature)

Commission Expires: _____

SUGGESTED ADVERTISEMENT FOR MINORITY, WOMEN & EVANSTON BUSINESS ENTERPRISE PARTICIPATION*

Notice to Minority, Women and Evanston Business Enterprise

_____, _____, _____ is
(Name of Company) (Address of Company) (Telephone)

seeking qualified Minority, Women and Evanston Businesses for the City of Evanston
_____ **Project for**

subcontracting opportunities in the following areas:

All interested and qualified Minority, Women And Evanston Businesses should contact, in writing, (Certified letter, return receipt requested, Company Contact Person) to discuss the

Subcontracting opportunities. All negotiations must be completed prior to the Bid opening date
of _____.

*The advertisement must clearly state the method of evaluating the proposals or quotations, and the relative importance attached to each criterion. Bidders must uniformly and objectively evaluate the proposals submitted by Minority, Women and Evanston business in response to the advertisement based upon the evaluation criteria stated in the advertisement. The evaluation criteria must not be restrictive or exclusionary.

M/W/EBE Participation Summary

**Sample
M/W/EBE
Participation
Summary**

| Name of Project: _____ | | | | Sample M/W/EBE Participation Summary | | |
|---|----------------------|-----------------------------------|------------------------------------|---|------|-------------------|
| Gen. Contractor: _____ | | | | | | |
| Total Cost of Project: _____ | | | | Monthly Report: _____ | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| Prime or Subcontractor | Description of Work | Total Subcontract Value (to date) | Total M/W/EBE Commitment (to date) | M/W/EBE Subcontractor | Type | Subcontract Value |
| | Arch. Precast Conc. | | 100% | | WBE | |
| | Masonry | | 100% | | MBE | |
| | Caissons/Sheeting | | 13% | | EBE | |
| | Concrete | | 22% | | EBE | |
| | Structural Steel | | 17% | | WBE | |
| | HM/Doors/Hardware | | 100% | | WBE | |
| | Windows/Curtain/wall | | 100% | | WBE | |
| | Plumbing | | 5% | | MBE | |
| | Plumbing | | 32% | | MBE | |
| | HVAC/Fire Protection | | 17% | | WBE | |
| | HVAC/Fire Protection | | 5% | | MBE | |
| | HVAC/Fire Protection | | 1% | | MBE | |
| | Electrical | | 14% | | WBE | |
| | Electrical | | 2% | | WBE | |
| | Electrical | | 10% | | MBE | |
| | Painting/VWC | | | | EBE | |
| | Landscaping | | | | EBE | |
| Subtotal MBE (Minority-Owned Business Enterprise) | | | | | | |
| Subtotal WBE (Woman-Owned Business Enterprise) | | | | | | |
| Subtotal EBE (Evanston Business Enterprise) | | | | | | |
| Total M/W/EBE Participation | | | | | | |
| | | | | | | |
| Total M/W/EBE Participation vs. Subcontracts Awarded | | | | | | % |
| Total M/W/EBE Participation vs. Total Contracts Awarded | | | | | | % |

Construction Contractors' Assistance Organizations

African American Contractors Association (AACA)
3706 Indiana Avenue
Chicago, Illinois 60653
312-915-5960
312-567-9919 Fax
Attn: Omar Shareef, Executive Director

Black Contractors United (BCU) .
400 West 76th Street, Suite 200
Chicago, Illinois 60620
773-483-4000
773-483-4150 Fax
Email: bcunewera@ameritech.net
Attn: Florence B. Cox, Executive Director

Federation of Women Contractors
330 S. Wells, Suite 1110
Chicago, Illinois 60606
312-360-1122
312-360-0239 Fax
Email: fwcchicago@aol.com
Attn: Sandra Gidley, Administrator

Hispanic American Construction Industry Association
901 W. Jackson Blvd., Suite 205
Chicago, Illinois 60607
312-666-5910
312-666-5692 Fax
Attn: Paul Cerpa, Executive Director
Email: pcerpa@haciaworks.org
Attn: Gilbert Villegas, Associate Director
Email: gvillegas@haciaworks.org

Women's Business Development Center
8 So. Michigan Avenue, Suite 400
Chicago, Illinois 60603-3302
312-853-3477
312-853-0145 Fax
Email: wbdc@wbdc.org
Attn: Carol Dougal, Director