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Minority & Women Business
Enterprise Plan

Economic Development Department

Housing Division

Approved by City Council, September 3, 2008

CITY OF PALMDALE

MINORITY AND WOMEN BUSINESS ENTERPRISE PLAN

JAMES C. LEDFORD, JR.
Mayor

STEPHEN KNIGHT
Mayor Pro Tem

MIKE DISPENZA
Council Member

STEVEN D. HOFBAUER
Council Member

TOM LACKEY
Council Member

STEPHEN H. WILLIAMS
City Manager

DANNY R. ROBERTS
Assistant Executive Director/Community Redevelopment Agency

MICHAEL ADAMS
Housing Manager

Background

The City of Palmdale is an entitlement grantee under the Federal Community Development Block Grant Program (CDBG) and a Participating Jurisdiction (PJ) under the Home Investment Partnerships Act (HOME) program. OMB Circular A-102 states that "It is national policy to award a fair share of contracts to small and minority business firms. Grantees shall take similar appropriate affirmative action to support of women's enterprises and are encouraged to procure goods and services from labor surplus areas." The HOME program regulations at 24 CFR 92.351(b) call for a minority outreach program inclusive of minority business enterprises (MBE) and women business enterprises (WBE). The Uniform Administrative Requirements of 24 CFR 85.36(e) require the City to "take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible." This requirement is applicable to contracting and subcontracting opportunities funded in whole or in part with the federal housing and community development assistance provided to the City as a grantee and PJ.

Further, the City is required under §570.507(b) - Reports (24 CFR Part 570, CDBG Final Rule) to submit a report to the U.S. Department of Housing and Urban Development (HUD) on the City's MBE-WBE contracting and subcontracting activity generated through the expenditure of HUD funds.

Objective

This MBE-WBE plan establishes a program for the achievement of certain contracting and subcontracting goals related to contracts and subcontracts funded in whole or in part with federal housing and community development assistance. It is the intent of the City of Palmdale to comply fully with the applicable federal policies on MBE-WBE contracting opportunity.

Coordination and Reporting to HUD

The Economic Development Department's Housing Coordinator, as the CDBG Consolidated Plan Coordinator, will coordinate the implementation and reporting of the MBE-WBE program and be responsible for the dissemination of program information intended to provide MBE-WBE firms an equitable opportunity to participate in the City's federally-funded contracting opportunities.

Following the conclusion of the federal fiscal year (September 30th), the Housing Coordinator shall ensure that the HUD-2516 Contract and Subcontract Activity Report is completed for all CDBG and HOME funded projects using the data supplied by contractors that is made part of each project file. All contracts and subcontracts of \$10,000 or more must be reported on the HUD-2516. Contracts or subcontracts less than \$10,000 may be reported only if they represent a significant portion of the City's total contracting activity. The HUD-2516 shall be maintained by the Housing Coordinator for audit purposes by HUD.

The Housing Coordinator is also required to complete and submit to the field office at the end of each fiscal year but no later than October 15 of each year the MBE Summary Report (Provided by HUD-Los Angeles in MS Excel Format).

All reports must be retained by the City for five years as required by the record keeping retention requirement at 24 CFR Part 570.502 (a)(16).

Policy

It is the policy of the City of Palmdale to utilize MBE-WBE firms to the greatest extent possible, feasible and legally permissible. This MBE-WBE Plan is guided by the preceding federal regulations and all other related federal and state laws and regulations governing discrimination, equal

opportunity and affirmative action pertaining to federally-funded contract and subcontract activities. The City of Palmdale's MBE-WBE contracting goals are 15% for MBE and 5% for WBE participation.

The City requires all contractors or persons doing business with or soliciting the same from the City to abide by provisions of the MBE-WBE Plan and to make every effort to obtain MBE-WBE participation when contracting opportunities are federally-funded. Failure to provide required MBE-WBE information to the City as required or requested in bid solicitations will result in a determination by the City that the bidder is not a responsible bidder.

The City will give preference and award contracts to bidders who have achieved the 15% MBE and 5% WBE goal. In the case where there is no bidder that meets the City's goal, the contract may be awarded to a bidder who has made good-faith efforts to achieve the City's MBE-WBE goals.

A successful bidder does not have to be a member of a minority group. What the City is attempting to do is make every possible effort to ensure the participation of MBE-WBE firms in federally-funded contracting opportunities. This does not preclude the participation of firms that are not MBE-WBE. Prime contractors (bidders) are required to make reasonable effort to subcontract 5% of the monetary value of their contract to bona-fide MBE-WBE companies. However, the MBE and WBE performing or providing services must not act merely as a passive conduit. In the event the City of Palmdale has reason to question the authenticity of ownership of an MBE-WBE, the burden of proof is on the claimant and/or contracting party to provide documentation to substantiate the ownership and management of a particular MBE or WBE.

Whenever a joint venture MBE-WBE involves a business owned by minorities or women, the contractor shall provide the City with a full account of the nature of the relationship, the basis for creation, the particular financial participation and administrative responsibilities of the parties. The nature of the relationship shall be in writing, and conform to pertinent laws governing the relationships. The City shall have the right to review and make a determination on the propriety of same.

Definitions

1. Minority and women business enterprises are defined as any financial institution, business, service, contracting business which is solely owned and operated by a minority group member or women or 50% or more of its partners or stockholders are minority group members or women. If the enterprise is publicly owned, the minority members or stockholders must have at least 51% interest and possess control over management, capital and earnings.
2. Minority Group Member- Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, women, et.al.
 - Black: A person with origins in any of the black racial groups of Africa.
 - Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American descent and Spanish culture. Portuguese are excluded from the Hispanic category and are classified according to their race.
 - Asian or Pacific Islander: A person having origins in the Far East, Southeast Asia, Indian subcontinent or Pacific Islands.
 - American Indian or Alaskan Native: A person with origins in original peoples of North America, and who maintain cultural identifications through tribal affiliation or community recognition.
3. Other

- Small Business Enterprise: A business which meets the definition of minority business enterprise or women business enterprise, and in addition, meets the small business size standards of the Small Business Administration.
- Contractor/Subcontractor/Supplier: The individual, partnership, corporation or other legal entity entering into a contract with the City or the City's contractor to perform a portion of the work.

Outreach Efforts

The City (and non MBE-WBE bidders) will notify minority and women contractors, associations, minority interest groups, etc., of their intention to solicit bids from MBE-WBE firms. For its part, the City Program staff will initiate affirmative recruiting efforts at three (3) levels:

Local Level

Bid solicitations shall indicate that the activity is a federally-funded CDBG or HOME activity where participation by MBE-WBE firms is crucial. The City will continue to use its website and other media to advertise bid opportunities. One example of such outreach is the Public Works 90-Day bid listing located at:

http://www.cityofpalmdale.org/departments/publicworks/program_management/dbe.html

County-wide Level

The same processes will apply to those minority and women contractor/subcontractors in terms of marketing the availability of contracts through the City Housing programs.

Multi-county

If necessary, most of the above-listed mechanisms will be carried out at a multi-county level involving Los Angeles, Riverside, San Bernardino, Ventura and Kern and Los Angeles Counties. The City of Palmdale will:

1. Disseminate information and communications on contracting procedures and specific contracting opportunities.
2. Whenever requested, provide feedback to unsuccessful bidders and subcontractors in order to encourage their future successful participation.
3. Update bidders, MBE-WBE lists on a continuous basis and make lists available to bidders by commodity, name, address, telephone number.
4. Make MBE-WBE lists available to all staff with purchasing authority.
5. Encourage Chambers of Commerce to disseminate information about MBE-WBE.
6. Post bids/job opportunities at the WorkSource Center.
7. Maintain a record of all bids and awards where MBE-WBE are involved.
8. Provide technical assistance to MBE-WBE relative to bonding, insurance and financing required for performance of City and other contracts.
9. Publish bids, RFPs and construction notices in widely circulated local newspaper minority media, trade associations and or business publications, and at the following places:

The Plan Room

42156 10th St. West, Unit P
Lancaster, CA 93534
(661) 723-7272
FAX (661) 723-6390

McGraw –Hill Construction Dodge

1333 South Mayflower, #300
Monrovia, CA 91016
(626) 932-6181
FAX (626) 932-6189

Kern County Builder’s Exchange

1121 Baker Street
Bakersfield, CA 93305
(661) 324-4921
FAX (661) 324-5364

High Desert Plan Room

42033 6th Street West, Suite A
Lancaster, CA 93534
(661) 945-3400; (760) 243-2111
FAX (661) 945-3422; (760) 243-2131

San Diego Daily Transcript Plan Room

2131 3rd Avenue
San Diego, CA 92101
(619) 232-4381 x276
FAX (619) 239-6625

Documentation Required from Bidders to Document Responsible MBE-WBE Outreach

As part of every CDBG or HOME funded bid, non MBE-WBE bidders must demonstrate that they have made the subcontracting opportunity known to at least three (3) MBE-WBE firms listed in a bona-fide listing of MBE-WBE firms. Such notification must be made at least two (2) weeks prior to bid opening via registered or certified mail. If the contractor has not achieved the participation goal, the City will determine whether the contractor made a good faith effort based on the outreach efforts that are documented on the MBE-WBE Tiered Compliance Plan.

1. To be considered responsible, bidders must submit the MBE-WBE Tiered Compliance Plan (Exhibit 1) and all supporting documentation to:
 - Document their own MBE or WBE status, or
 - Document the award of 15% (MBE) and/or 5% (WBE) subcontracts to bona-fide firms, or
 - Document the required minimum three (3) firm outreach effort and any other outreach efforts.

The good-faith effort Affidavit on the MBE-WBE Tiered Compliance Plan must be notarized.

2. Some examples of acceptable good-faith supporting documentation include:
 - Responses, proposals, bids from MBE and WBE, rejections and contractor’s responses.
 - Contracts with MBE and WBE organizations, associations, related agencies, disseminating bid information.
 - Copies of registered/certified letters, etc.
 - Efforts undertaken by contractor(s) to assist MBE-WBE with obtaining plans, specification, sub bid requirements and bonding.
 - Assistance and encouragement of MBE-WBE and subcontractor participation in all areas of business environment.
 - Methods used in soliciting bids from MBE-WBE, subcontractors and suppliers by advertisements, trade publications, media, etc.
 - Contracts with MBE-WBE brokers, agents, owners, operators of equipment, etc.
 - Other efforts taken by contractor to encourage MBE-WBE participation.

Protest/Resolution

Where a determination is made by staff as part of the MBE-WBE Bid Evaluation Memorandum (Exhibit 2) that a successful bidder has not made the good faith effort to ensure participation by eligible, WBE and MBE subcontractors, vendors, suppliers and other related crafts and services, the aggrieved party may protest to the Housing Coordinator in writing. If there is not resolution at the Housing Coordinator or Deputy Manager level, the aggrieved party may appeal in writing through the administrative chain up to the City Council. If the Housing Coordinator concludes that a good faith effort was made (based on the facts of the grievance) the aggrieved party will continue with the regular contracted work. Work may continue during the protest/resolution process, therefore conclusion of the dispute is of the essence.

Program Review

While staff will monitor compliance on a regular basis, periodically, the Housing Coordinator will review: (a) progress of good faith efforts in each case, and; (b) procedures calling for changes or additions to this MBE-WBE plan.

Selected Listings of Potential MBE-WBE Businesses

U.S. Department of Commerce Minority Business Development Administration –
Resource and Capital Locator

www.mbda.gov

California Unified Certification Program (DBEs) – Searchable Database

http://www.dot.ca.gov/hq/bep/dbe_query.htm

State of California Civil Rights Program

http://www.dot.ca.gov/hq/bep/find_certified.htm

State of California Public Utilities Commission – State Database of MBE, WBE, & other businesses

<http://www.cpuc.ca.gov/PUC/SupplierDiversity/database.htm>

State of California Department of General Services – State Database of MBE & WBE businesses

<http://www.pd.dgs.ca.gov/smbus/default.htm>

EXHIBITS

1. Bidder's MBE-WBE Tiered Compliance Plan
2. City of Palmdale MBE-WBE Bid Evaluation Memorandum

**Exhibit 1
City of Palmdale
MBE-WBE Tiered Compliance Plan**

THIS PLAN MUST BE SUBMITTED WITH YOUR BID FOR THIS FEDERALLY-FUNDED CONTRACT OPPORTUNITY

SECTION 1

Date _____

Project Number _____

Phone _____

FIRM NAME

STREET ADDRESS

MAILING ADDRESS

TYPE OF ORGANIZATION (Please check)

_____ Individual

_____ Corporation

_____ Partnership

_____ Joint Venture

Name of Owner _____

State of Incorporation _____

Indicate General "G", Limited "L" _____

Name of Partners _____

Joint Venture Participants _____

Year(s) firm has been in business under present ownership _____

BIDDER'S FIRM - OWNERSHIP INTEREST

	Black	Hispanic	Alaskan Native or American Indian	Asian or Pacific Islander	White	Women
Number						
% of Assets Owned						

Ownership of Firm: Identify those who own 5 percent or more of the firm's ownership. Columns E and F need to be filled out only if the firm is less than 100 percent minority owned.

A	B	C	D	E	F
NAME	RACE	SEX	YEARS OF OWNERSHIP	OWNERSHIP PERCENTAGE	VOTING PERCENTAGE

**IF MORE THAN 50% MINORITY OR WOMEN OWNED, PROCEED TO SECTION 3
(CONTRACTING / GOOD FAITH EFFORT AFFIDAVIT)**

SECTION 2

MBE AND WBE SUBCONTRACTS AWARDED

MBE-WBE Contract Goals: MBE = 15% WBE = 5%

Contract Title _____ Bidder's Name _____
 Contract/Specification No. _____ Bid Amount _____ Bid Opening Date _____

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OF WORK OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED:	NAME OF MBE.WBE FIRM & LISTING WHERE LOCATED:	MBE OR WBE?	DOLLAR AMOUNT CONTRACT:	MBE-WBE STATUS CERTIFIED BY:

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

(Signature of Bidder)

PERCENTAGE
OF TOTAL
CONTRACT

Telephone No. (_____) _____ - _____

	MBE PARTICIPATION CLAIM	\$		%
	WBE PARTICIPATION CLAIM	\$		%

Date _____, 20__

IF MBE AND WBE GOALS ARE MET THROUGH SUBCONTRACTING ACTIVITY, PROCEED TO SECTION 3 (CONTRACTING / GOOD FAITH EFFORT AFFIDAVIT)

SECTION 2 (Continued)

**GOOD FAITH EFFORT MBE/WBE PROGRAM
MBE-WBE SUBCONTRACTORS LISTING FORM**

Bidder's Name _____ Contract Title _____
Contractor/Specification No. _____ Bid Opening Date _____

MBE-WBE Firm Name _____
Address _____
City/State/Zip _____
Contact Person _____ Telephone No. (_____) _____ - _____
Designation: MBE WBE
Subcontracted work to be provided _____

MBE-WBE Firm Name _____
Address _____
City/State/Zip _____
Contact Person _____ Telephone No. (_____) _____ - _____
Designation: MBE WBE
Subcontracted work to be provided _____

MBE-WBE Firm Name _____
Address _____
City/State/Zip _____
Contact Person _____ Telephone No. (_____) _____ - _____
Designation: MBE WBE
Subcontracted work to be provided _____

MBE-WBE Firm Name _____
Address _____
City/State/Zip _____
Contact Person _____ Telephone No. (_____) _____ - _____
Designation: MBE WBE
Subcontracted work to be provided _____

Signature of Bidder _____ Date _____

Use additional sheets as necessary.

IF MBE AND WBE CONTRACTING GOALS ARE MET THROUGH THE ABOVE-LISTED SUBCONTRACTING ACTIVITY, PROCEED TO SECTION 3 (CONTRACTING/GOOD FAITH EFFORT AFFIDAVIT)

SECTION 3

CONTRACTING/GOOD-FAITH EFFORT AFFIDAVIT

Contract Title _____

Contract/Specification Number _____

Bid Amount \$ _____ Bid Opening Date _____ 20 _____

MBE-WBE Goals of Contract: MBE _____% WBE _____%

This Affidavit must be signed, notarized and submitted with your bid or proposal. In addition, documentation MUST be submitted to support your contention that a "GOOD FAITH EFFORT" was made to secure MBE-WBE Participation.

Your "GOOD FAITH EFFORT" will be judged in part by the following criteria. Please initial where indicated that you have read and complied with each requirement. Complete the requested forms and provide the requested documentation as a part of this affidavit in the exhibit specified.

- 1. The Bidder/Firm is a bona-fide MBE or WBE firm; or, the Bidder/Firm subcontracted 15% of its contract amount to MBE firm(s) and 5% of its contract amount to WBE firms.

initial

- 2. Did you attend the pre-bid meeting?

initial

If you did not attend the pre-bid meeting, you must submit documentation which indicates that you have knowledge of the material presented at the meeting and provide with bid.

- 3. Did you advertise for MBE-WBE subcontracting opportunities available for this project?

initial

If 3. is initialed, list the media information: name, address, city, state, zip code, contact person, telephone number, dates, dates of advertisement. Attach copies of actual advertisement and provide with bid.

- 4. Interested potential MBE-WBE subcontractors were provided with the project plans and specifications.

initial

If 4. is initialed, list names of MBE-WBE firms, address, city, state, zip code, contact person, telephone number, project plans and specifications provided, and indicate results. Also, attach copies of internal documents, sub-bid, status log, that will evidence the same and provide with bid.

- 5. Follow-up contacts were made with potential MBE-WBE firms which expressed an interest in the project.

initial

If 5. initialed, submit the following information: name of firm, address, city, state, zip code, the contact person, telephone number (area code), whether MBE or WBE, dates of solicitation, dates of follow-up, method of follow-up, results. Also attach any internal documents that will evidence the same and submit with bid.

Minority & Women Owned Business

6. Assistance was requested from organizations which identify potential MBE-WBE firms, including the City of Palmdale Minority and Women Business Enterprise Program.

initial

If 6. is initialed, provide the following information: name of organization, address, city, state, zip code, contact person, time and dates contacted, method contacted, results. Also, include any internal documents that will evidence the same and submit with bid.

7. Potential MBE-WBE firms were contacted and negotiation was made in good faith.

initial

If 7. is initialed, provide the following information: name of MBE-WBE firm, address, city, state, zip code, contact person, whether MBE or WBE, plans or specifications negotiated and results. Also attach copies of any internal documents that will evidence the same and submit with bid.

8. Potential MBE-WBE subcontractors were given assistance or advised that assistance was available to them, through me, on this contract.

initial

If 8. is initialed, provide the following information: name of MBE-WBE firm, address, city, state, zip code, contact person, whether MBE or WBE, assistance provided, results. Also, attach copies of any documents that will evidence the same and submit with bid.

9. Did you provide WRITTEN notice of your interest in bidding on this project to MBE-WBE firms having an interest in participating in the project.

initial

If 9. is initialed, submit the following information: name of MBE-WBE firm, address, city, state, zip code, contact person, whether MBE or WBE, telephone number, and method of written notice. Also, attach copies of written letters or documents that will evidence the same and submit with bid.

I declare under penalty of perjury that the forgoing information is true and correct.

Company Name _____

Company Address _____

City _____ State _____ Zip Code _____

Printed/Typed Name _____ Telephone No. (_____) _____

Signature _____ Date _____, 200_____

(NOTARY SEAL)

