

**City of Minneapolis**  
**Small and Underutilized Business Enterprise Program**  
**Special Provisions for Development Projects**  
**Minnehaha Townhomes**

**I. Overview**

The City of Minneapolis policy is to provide equal opportunities to all businesses, with an effort to redress discrimination in the City's marketplace and in public contracting against minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs"). This is accomplished through the Small and Underutilized Business Program ("SUBP") as detailed in the Minneapolis Code of Ordinances Chapter 423. SUBP applies to any development project receiving a subsidy through the City of over \$100,000. SUBP goals are set on projects based on the project scope, subcontracting opportunities and availability of eligible MBEs/WBEs.

The City has set the following SUBP goals to facilitate participation of MBEs/WBEs on this project:

**8% MBE and 9% WBE**

Only eligible and available MBEs/WBEs count towards the SUBP goals. An eligible and available MBE/WBE is:

1. Certified under the Minnesota Uniform Certification Program (MNUCP).
2. Located within the City's marketplace.<sup>1</sup>
3. Certified within the scope of work in which they will be performing.
4. Performing a commercially useful function on the contract.

**II. Good Faith Efforts Evaluation**

The developer's contractor must either meet the goals listed above or demonstrate a Good Faith Effort to do so. A Good Faith Effort means that the developer's contractor made *every necessary and reasonable effort* to subcontract with MBEs/WBEs prior to subcontractor bidletting.

To determine if the developer's contractor solicited MBEs/WBEs in good faith, the following list of *seven factors* may be considered:

1. Soliciting through all reasonable and available means (attendance at pre-bid meetings, advertising and/or written notices) the interest of all MBEs/WBEs certified in the scopes of work of the contract. The developer's contractor must solicit MBEs/WBEs in sufficient time prior to bid opening or the proposal deadline to allow MBEs/WBEs to respond to solicitations. The developer's contractor must determine with reasonable certainty if the MBEs/WBEs are interested by taking appropriate steps to follow up on initial solicitations.
2. Selecting portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the project goals will be achieved. This includes, where appropriate, breaking out contract work into smaller units to facilitate MBE/WBE participation, even when a developer's contractor might otherwise prefer to perform these work items with its own forces.
3. Providing interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. The developer's contractor must negotiate in good faith with interested MBEs/WBEs and provide written documentation of such negotiation with each such business. In determining whether the developer's

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<sup>1</sup> Minnesota counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

contractor negotiated in good faith, the City of Minneapolis Department of Civil Rights (“MDCR”) may consider a number of factors including price, scheduling and capabilities as well as the contract goal.

5. The fact that there may be some additional costs involved in finding and using MBEs/WBEs is not itself sufficient reason for the developer’s contractor’s failure to meet the project goals as long as such costs are reasonable.
6. If requested by a solicited MBE/WBE, the developer’s contractor must make reasonable efforts to assist such MBEs/WBEs in obtaining bonding, lines of credit or insurance as required by the developer or by the developer’s contractor, provided that the developer’s contractor need not provide financial assistance toward this effort.
7. Effectively using the services of minority/woman community organizations; minority/woman contractors’ groups; local, state and federal business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the solicitation and placement of MBEs/WBEs.

### III. Required Documentation

The developer’s contractor must thoroughly document its efforts to solicit and incorporate MBE/WBE participation to meet the SUBP goals. The following documents must be submitted after subcontractor bidletting and prior to closing on the City subsidy:

1. *Bidders and Solicitation List*: Must include all subcontractors, sub-consultants, service providers or suppliers that were solicited. It also indicates which MBE/WBE firms the developer’s contractor intends to use.
2. *Supporting Documentation to Demonstrate Good Faith Efforts*: The developer’s contractor must submit documentation evidencing the efforts taken to achieve the SUBP goals. The information may include, but is not limited to, copies of solicitation emails, bids received, faxes, and phone call logs.
3. *Good Faith Efforts Checklist*: A checklist based on the *seven factors* that may be considered in determining whether MBE and WBE participation was solicited in good faith. The developer’s contractor must use the checklist during subcontractor bid solicitation to demonstrate the efforts that were made.
4. *Pre-Construction Book*: Collects information related to subcontracts, employment participation, construction schedules, and required wages. The developer’s contractor must ensure that the MBEs and WBEs they intend to contract with and their respective subcontract amounts are within the Pre-Construction Book and are accurate.

### IV. Post-Award Substitutions

The developer’s contractor shall not substitute any MBE/WBE subcontractor listed in the Pre-Construction Book without the prior written approval of MDCR. The developer’s contractor must make good faith efforts to replace an MBE/WBE subcontractor that is unable to perform with another MBE/WBE to perform the same scope of work.

### V. Penalties for Non-Compliance

Compliance with SUBP is a material condition of the City’s subsidy contract. The City may take the following actions wholly, partly, or in any combination:

- a) Temporarily withhold disbursements of City-provided funds pending correction of the deficiency.
- b) Disallow the use of funds for all or part of the cost of the activity or action not in compliance.
- c) Suspend or debar the noncompliant developer, developer’s contractor, subcontractor, supplier or vendor as ineligible for all current or potential contracts with the City or supported by City funds.
- d) Designate the noncompliant developer, developer’s contractor, subcontractor, supplier or vendor as high-risk for future contracts and require of the developer, developer’s contractor, subcontractor, supplier or vendor increased reporting requirements, mandatory audits and similar measures.

Please review Minneapolis Code of Ordinances Chapter 423 for more information or contact the City of Minneapolis Department of Civil Rights at (612) 673-3012 or [contractcompliance@minneapolismn.gov](mailto:contractcompliance@minneapolismn.gov)