

COMMUNITY BENEFITS PROGRAM CONTRACT SPECIFICATION

The City of Duluth has determined that it is critical to the economic vitality of the city and its citizens that contractors entering into contracts with the city for Covered Projects as defined in City Code commit to assisting in developing a diverse, trained, and skilled workforce needed for the construction of projects. Therefore as a condition of the award of this Contract to the Contractor, Contractor hereby agrees to use its best efforts to implement the Community Benefits Program (the “Program”) as hereinafter set forth in this Specification and to cooperate fully with the City’s Workforce Development Department to so implement the Program. Further Contractor agrees to require any subcontractor of Contractor working on the Covered Project covered by this Specification to so use their best efforts to implement the Program.

CONTRACTOR FURTHER AGREES THAT ITS PERFORMANCE OF ITS OBLIGATIONS AS SET FORTH IN THIS SPECIFICATION MAY BE AN ELEMENT IN DETERMINING WHETHER CONTRACTOR IS A “RESPONSIBLE BIDDER” ON FUTURE CONTRACTS FOR COVERED PROJECTS FOR THE CITY.

I. DEFINITIONS

For the purposes of this Specification, the following terms shall have the meanings hereinafter ascribed to them:

- A. Best Efforts: shall mean such efforts as are reasonable in light of the Contractor’s ability and the means at its disposal.
- B. Best Efforts Plan: shall mean a plan developed and approved between a Contractor and the Workforce Development Department to implement the Contractor’s Best Efforts obligations under this Specification.
- C. Contractor: shall mean the contracting entity entering into the contract of which this Specification is a part and all of its Subcontractors.
- D. Eligible Workers: shall refer to women, people of color, and other individuals who are considered socially disadvantaged, and whose work hours on a covered project shall count toward the Community Benefits Goal outlined in this document. An individual who falls within one or more of the following federally protected classes or who has one or more of the following characteristics shall be considered an Eligible Worker:

Federally protected classes;

- Woman;
- Person of color;
- Has a disability;
- Veteran

Other Eligible Worker Characteristics;

- Is currently homeless;
- Has received public assistance of any kind within the last 12 months;
- Has a criminal record of conviction;
- Is currently in, or has been emancipated from, the public foster care system;
- Is a disadvantaged or at-risk youth, as defined by the Workforce Investment and Opportunity Act (WIOA), between the ages of 18 and 24;
- Has a household income below 200% of Federal Poverty Level
- Is otherwise eligible under HUD Section 3.

E. Program: shall mean the Community Benefits Program as set forth in this Specification.

F. Project: shall mean the Covered Project as defined by City Code Section 2-25 that is the subject of the contract of which this Specification is a part.

G. Subcontractors: shall mean all subcontractors of Contractor of whatever tier engaged in on-site work on the Project covered by the contract of which this Specification is a part.

H. Work Hours: shall mean the total number of hours of work performed on a Project by Eligible Workers, which work is of a type or character commonly performed by members of labor unions which are affiliated with the Duluth Building and Construction Trades Council or similar regional Councils within Minnesota.

II. PROGRAM GOALS

All Contractors entering into contracts for Projects will be required to use their best efforts, as described below, in the performance of those contracts to attain the following Program goals:

A. Eligible Worker - General: For each Project contract entered into in the calendar year set forth below the Contractor shall use its best efforts to cause the following percentage of total hours of work performed with respect to such Project to be Work Hours performed by Eligible Workers:

1. For all contracts entered into in 2019 - 10%
2. For all contracts entered into in 2020 - 12%
3. For all contracts entered into in 2021 and thereafter - 15%

B. Women

One-half of Work Hours shall be performed by Eligible Workers who are women.

III. CONTRACTOR-BEST EFFORTS

A. Plan

Contractor shall submit a Best Efforts Plan to the Workforce Development Department within Five (5) Days of the issuance of the notification of intent to award. This plan shall outline workforce requirements for the construction of the Project and specify actions that the Contractor will take to achieve the Program Goals set forth in Section II above for the construction of the Project. No Notice to Proceed will be issued by the City for any Project unless the required Best Efforts Plan has been approved by the Workforce Development Department.

The actions outlined in the Best Efforts Plan are intended to create a lasting partnership between the City and the Contractor to help Eligible Workers develop life-long careers and increase the community's capacity to provide the appropriate workforce for future projects. The Best Efforts Plan shall include ongoing efforts lasting beyond Project completion. The Best Efforts Plan may include but shall not be limited to the following commitments by the Contractor:

1. To participate in local job fairs and hiring events, including those at high schools, those organized by CareerForce and other partner organizations, and those organized by area community and technical colleges.
2. To proactively work with the Workforce Development Department and partner organizations it has identified, as well as with unions with which the Contractor has agreements, to sponsor new Eligible Workers into such union's apprenticeship programs.
3. To proactively work with CareerForce, Native American tribes and appropriate community organizations to recruit and retain Eligible Workers.

4. To support and actively participate in local apprenticeship exploration programs and other construction career training opportunities.
5. To actively participate in the Duluth Workforce Development Board's Construction Working Group, and in its various initiatives to expand the involvement of Eligible Workers in our region's construction workforce.
6. To develop and implement efforts to retain and support advancement of Eligible Workers in the Contractor's company.
7. To develop and implement company policies and processes to facilitate reporting and resolution of discrimination, harassment, or bias complaints.
8. To require the Contractor's Subcontractors to join with and cooperate fully with Contractor in the implementation of the Contractor's Best Efforts Plan.
9. To take such other actions that will encourage participation of Eligible Workers in the Construction of Projects, while not adding cost to the Project.
10. To take, and to require its Subcontractors to take appropriate corrective action within a specified time period when notified by the Workforce Development Department that its Program efforts have failed to meet the Best Efforts requirements of the Plan.

B. Reporting

1. Monthly Reporting: No later than Ten (10) days following the end of the month in which Work Hours are performed on any Project, the Contractor shall submit a written report(s) to the Workforce Development Department certifying the names and identities of all Eligible Workers performing work on the Project in the prior month, the number of hours of Work Hours performed by each such Eligible Worker and the total number of hours of work performed by all workers working on the Project; the report(s) shall include the same information regarding employees of and work performed by Subcontractors. In determining the identity of Eligible Workers, Contractors and Subcontractors may use then-current lists of Eligible Workers certified by the Workforce Development Department or self-attestation forms signed by Eligible Workers collected by the Contractor or Subcontractor and provided to the Workforce Development Department, or a combination thereof.
2. Completion Report: No later than Sixty (60) days following the end of substantial completion of construction on any Project, the Contractor shall submit a written report(s) to the Workforce Development Division certifying the names and identities of all Eligible Workers performing work on the Project from commencement of construction to its completion, the number of hours

of Work Hours performed by each such Eligible Worker and the total number of hours of work performed by all workers working on the Project; the report(s) shall include the same information regarding employees of and work performed by Subcontractors. Eligible Workers shall be certified as provided for in subparagraph 1 of Paragraph B above. In addition, if the Completion Report establishes that the Program Goals have not been met, the Completion Report shall set forth in detail all efforts actually effectuated to implement the Best Efforts Plan and may set forth any explanations or extenuating circumstances for not having met the Program Goals.

IV. CITY-PROGRAM OBLIGATIONS

As they pertain to the implementation of the Program, the City, through its Workforce Development Department, shall:

- A. Work with and assist Contractor and all Subcontractors in developing the Best Efforts Plan for each Project covered by this Specification.
- B. Promptly review and approve the Best Efforts Plan as and when appropriate.
- C. Actively recruit potential Eligible Workers to enter into the building and construction trades and to participate in educational and training programs aimed at making them employable in said trades.
- D. Work with and collaborate with educational institutions, community partners and apprenticeship programs to build accessible pathways into employment in the building and construction trades and assist in resolving barriers which might inhibit the availability of employment in such trades to Disadvantaged Workers.
- E. Receive and review the Monthly Reports referred to in Subparagraph 1 of Paragraph B of Section III above and notify any reporting Contractor or Subcontractor that is not meeting the Best Efforts requirements of the Program of any deficiency and collaborate on identification of steps that such Contractor or Subcontractor can perform to address the deficiency.
- F. Receive and review the Completion Reports referred to in Subparagraph 2 of Paragraph B of Section III above and notify any reporting Contractor or Subcontractor that has not met the Best Efforts requirements of the Program of that deficiency. Document and report any explanations or extenuating circumstances were provided by Contractor or any Subcontractor for not having met the Program Goals.