

CITY OF CREEDMOOR

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 CREEDMOOR, NC 27522
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 (919) 528-3332

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 ROBERT V. WHEELER

INTERIM CITY MANAGER
 MICHAEL O. TURNER

COMMISSIONERS
 KECHIA BRUSTMEYER-BROWN
 GEORGANA KICINSKI
 DEL MIMS
 ED MIMS
 NEENA NOWELL

RESOLUTION 2020-R-15

RESOLUTION FOR THE CITY OF CREEDMOOR TO ADOPT AN OUTREACH PLAN AND TO ESTABLISH A VERIFIABLE PERCENTAGE GOAL FOR PARTICIPATION BY MINORITY BUSINESSES IN THE AWARDING OF BUILDING CONSTRUCTION CONTRACTS PURSUANT N.C.G.S. 143-128.2

WHEREAS, the North Carolina General Assembly enacted Session Law 2001– 496, Senate Bill 914 to enhance and improve the good faith efforts to recruit and select minority businesses for participation in public building construction or repair contracts by adding N.C.G.S. 143-128.2; and

WHEREAS, N.C.G.S. 143-128.2 requires each city, county, or other local public entity to adopt, after notice and a public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for building projects costing \$300,000 or more; and

WHEREAS, N.C.G.S. 143-128.2(b) requires a public entity awarding a building contract where the total cost equals or exceeds \$300,000 to establish, prior to solicitation of bids, good faith efforts that it will take to make it feasible for minority businesses to submit successful bids or proposals for the contracts for building projects; and

WHEREAS, N.C.G.S. 143-128.2(e)(1) requires a public entity awarding a building construction or repair contract where the total cost exceeds \$300,000, prior to awarding a contract, to develop and implement a minority business participation outreach plan; and

WHEREAS, notice of the public hearing was duly published in the Butner-Creedmoor News on October 22, 2020 & October 29, 2020 and the required public hearing was held on November 2, 2020;

WHEREAS, the public hearing for this matter was conducted during a remote meeting as defined by G.S. 166A-19.24(i)(3). As required by G.S. 166A-19.24(e), the Board of Commissioners shall allow written comments on the subject of the public hearing to be submitted up to twenty-four hours after the hearing. If no written comments are received, this resolution shall become effective twenty-four hours after being adopted. If written comments are received within the twenty-four hour window, the effective date of the resolution shall automatically be tolled to the next meeting of the Board of Commissioners, at which time the Board shall vote on whether to allow the resolution to become effective or to rescind the approval; and

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the City of Creedmoor:

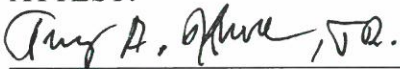
1. That the City of Creedmoor shall have a ten (10) percent verifiable percentage goal for participation by minority businesses in the total value of work for building projects awarded by the City of Creedmoor and costing \$300,000 or more.

2. That the City of Creedmoor shall follow the guidelines of the minority business outreach plan for minority business participation in building construction or repair contracts.
3. That the City of Creedmoor adopts amendments to the City of Creedmoor Purchasing Policy, last amended on September 4, 2018.

Adopted by vote of the Board of Commissioners of the City of Creedmoor this, the 2nd day of November, 2020 upon motion from Commissioner Ed Mims.


Robert V. Wheeler, Mayor

ATTEST:


Terry A. Hobgood, Jr., City Clerk



City of Creedmoor



PURCHASING POLICY

Adopted by Resolution 2016-R-34
on November 15, 2016

Amended on:
September 4, 2018
November 2, 2020 (Placeholder)

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I. GENERAL GUIDELINES FOR PURCHASING SUPPLIES AND MATERIALS

A. BUYING LOCAL

It is the desire of the city staff and elected officials to purchase from vendors located within the City of Creedmoor and Granville County whenever possible, while recognizing the responsibility to residents to ensure that maximum value is obtained for each public dollar spent. Local vendors and suppliers are encouraged to compete for all city business; however, purchasing decisions cannot be made solely on the basis of vendor residence.

B. BUYING FROM MINORITY-OWNED BUSINESSES

1. For purposes of this section, the term ‘minority’ refers to a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
 - e. Female
2. The City of Creedmoor has established a Minority Business Outreach Plan (Exhibit C) for locally funded building construction & repair contracts costing \$300,000 or more. (NC G.S. 143-128.2(j))
3. The Minority Business Outreach Plan will also apply to building construction & repair contracts with a cost of at least \$100,000 that is funded, at least in part, by North Carolina State appropriations or other State grant funds (NC G.S. 143-128.2(a))
4. For procurement activities not covered by the Minority Outreach Plan and when multiple quotes are required by state statute or local policy, the City of Creedmoor encourages employees to contact minority-owned businesses to submit a quote for consideration. The following are possible sources of information that can be used to search for minority-owned businesses:
 - a. NC Department of Administration [Historically Underutilized Businesses (HUB)]
 - b. Small Business Administration
 - c. NC Department of Transportation
5. Reporting & Review
 - a. Building Construction & Repair Contracts - For any building construction & repair contracts over \$30,000, the City of Creedmoor will report project data to HUBSCO (Historically Underutilized Businesses State Construction Office) as necessary, such as the type of project, total dollar value of the project, dollar value of minority business participation, and documentation of efforts to recruit minority participation upon completion of the project. The City shall maintain a record of contractors solicited and shall document efforts to recruit minority business participation in those contracts (NC G.S. 143-131(b))
 - b. For any procurement expenses with businesses that are known by the purchaser to be minority-owned, the purchaser will inform the Finance Department that the vendor is classified as such and the vendor file will be updated accordingly in order to track the amount paid to minority-owned businesses. The Finance Department will also periodically review the databases at any of the organizations listed in item (4) of this section, or any other known databases, for any businesses in Creedmoor and surrounding areas that are

minority-owned in which the City currently procures supplies or services.

6. Nothing in this section shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bids or quotes.

C. BUYING FROM VETERAN-OWNED BUSINESSES

For any procurement expenses with businesses that are known by the purchaser to be veteran-owned, the purchaser will inform the Finance Department that the vendor is classified as such and the vendor file will be updated accordingly in order to track the total amount paid to veteran-owned businesses. The Finance Department will also periodically review the Small Business Administration database, or any other known databases, for any businesses in Creedmoor and the surrounding areas that are veteran-owned in which the City currently procures supplies or services. To the extent practicable, known veteran-owned businesses shall be invited to make bids on City contracts.

D. BUYING PROPER QUALITY

Quality and service are as important as price. It is the duty of the requesting department to secure the best, most economical quality that will meet the requirements for which the goods are intended. In some instances, the lowest price does not necessarily mean the **best value**.

E. SALES TAX

Purchases made with city funds are not initially exempt from North Carolina sales tax, and therefore, orders must include sales tax for all taxable items. All sales tax expenses are then booked separately and submitted annually for state reimbursement.

II. AVAILABILITY OF BUDGETARY FUNDS

A. AUTHORITY

Department Heads are authorized to make changes between non-personnel-related operating expenditure lines up to \$1000. Changes in excess of \$1000 must be approved by the City Manager or his/her designee.

B. PURCHASES REQUIRING BOARD APPROVAL

Purchases not anticipated in the current fiscal year budget do not require board approval if they do not exceed \$5000 and funds are available in the affected department to cover the expenditure.

Purchases not anticipated in the current fiscal year budget require board approval if they exceed \$5000. A budget amendment will be prepared and presented to the board for consideration.

III. VENDOR SELECTION

A. SELECTION POLICY

1. Formal bids, informal bids, or other quotations will be solicited by the department initiating the purchase and shall remain confidential until awarded.
2. All vendors shall be evaluated on the basis of competitive pricing and responsible delivery of goods and/or services.
3. In accordance with applicable North Carolina General Statutes, bid awards, contracts, and/or purchase orders will be awarded or issued to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bid for the performance of the contract.

B. BIDDING & PURCHASING REQUIREMENTS

1. Formal Bids (N.C.G.S. §143-129)

- a. Contracts and purchases that require the use of formal bid procedures are as follows:
 - (1) Purchase of apparatus, supplies, materials or equipment requiring an estimated expenditure equal to or greater than \$90,000.
 - (2) Construction or repair work requiring an estimated expenditure equal to or greater than \$500,000.
 - b. All formal bids shall be procured following the procedures outlined in North Carolina General Statutes §143-129, unless the Board of Commissioners authorizes the use of an alternate procedure such as, but not limited to, design-build contracting.
2. Informal Bids (N.C.G.S. §143-131)
- a. Contracts and purchases that require the use of informal bid procedures are as follows:
 - (1) Apparatus, supplies, materials or equipment requiring the expenditure of at least \$30,000 but less than \$90,000.
 - (2) Construction or repair work requiring the expenditure of at least \$30,000 but less than \$500,000.
 - b. Although not required by statute, whenever practical or feasible, solicitation of informal bids shall be made so that the process results in the receipt of at least three (3) viable options.
 - c. It shall be the duty of the staff member responsible for collection of bids to keep a record of all bids submitted, and such record shall not be subject to public inspection until the contract has been awarded.
 - d. All informal bids shall be procured following the procedures outlined in the North Carolina General Statutes §143-131.
3. All Other Contracts and Purchases
- a. Contracts and purchases not requiring formal or informal bidding:
 - (1) Apparatus, supplies, materials or equipment requiring the expenditure of less than \$30,000.
 - (2) Construction or repair work requiring the expenditure of less than \$30,000.
 - b. Whenever practical or feasible, solicitation of quotes (where no formal or informal bidding requirements exist) shall be made to three (3) vendors when the following apply:
 - (1) Purchase of apparatus, supplies, materials or equipment requiring the expenditure of at least \$5,000 but less than the \$30,000 informal bidding threshold.
 - (2) Construction or repair work requiring the expenditure of at least \$10,000 but less than the \$30,000 informal bidding threshold.
 - c. Although neither formal nor informal bids are required, the purchasing process as set out in this policy shall be followed for each contract or purchase.

C. CONTRACTS REQUIRING BOARD APPROVAL

Contracts governed by Section III (B)(1) and Section III (B)(2) of this policy shall be presented to the Board for approval.

D. UNIFORM GUIDANCE COMPLIANCE STATEMENT

Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies and standards, including those under the Uniform Guidance (2 C.F.R. Part 200)

IV. THE PURCHASING PROCESS

A. OVERVIEW

This section outlines the City of Creedmoor's purchasing procedure and covers the purchase of apparatus, supplies, materials and/or equipment. To be valid, purchase orders must bear the Finance Officer's signature and the certificate, "This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act".

A purchase order is a contract between the city and a vendor and is not binding until accepted by the vendor. The issuance of purchase orders by unauthorized city employees or officials will not be recognized by the city and payment of these obligations will not be approved. Obtaining supplies, materials, equipment, or services without a purchase order also constitutes an unauthorized purchase (except in emergency situations as outlined in Section V of this policy).

B. REQUEST TO PURCHASE

The *Request to Purchase Form* (Exhibit A) initiates the procurement cycle. The receipt of this form with the required information and appropriate approvals authorizes the Finance Department to proceed with issuing a purchase order. A completed requisition with appropriate approvals is required for all purchases other than those identified below.

Items which do not require Purchase Orders:

Annual Dues	Postage	Memberships
Claim Payments	Rental of Buildings	Tuition Fees
Gasoline	Service Contracts	Utilities
Diesel Fuel	Subscriptions	Professional Services (i.e. Accounting, Legal, etc.)
Insurance Premiums	Travel/Training	

The City Manager, ~~or in his or her absence the Assistant City Manager~~, may authorize additional items that can be purchased without a Purchase Order.

C. PURCHASE ORDERS

Purchase orders are required for all applicable purchases which exceed five-hundred dollars (\$500).

A purchase order is equivalent to a signed contract and represents the verbal/written authorization to proceed with purchase, therefore it must be issued at the time of commitment. Purchase orders will only be issued after a properly completed *Request to Purchase Form* (including signatures of both the initiating Department Head and Finance Officer), and accompanying quote(s) and related documentation, if applicable, have been received.

In order to properly process vendor invoices for payment which reference a previously issued purchase order, staff responsible for the purchase must sign approval and/or acceptance that the goods or services have been received to satisfaction.

V. SPECIAL PROCUREMENT PROCEDURES

A. BLANKET PURCHASE ORDERS

Blanket purchase orders may be issued to selected vendors for the procurement of large volume items such as landscaping supplies, rock, sand, and asphalt. Blanket purchase orders should not be used for items normally carried in stock at the maintenance shop.

Requests for blanket purchase orders must, in addition to the required information, indicate the following:

1. Items covered by the blanket purchase order; and
2. A *Not-To-Exceed* (NTE) amount in the appropriate column.

It is the responsibility of the individual authorized to purchase under a blanket purchase order to

insure that an unspent balance remains to cover all purchases made. Any purchase that exceeds the funds available under a blanket purchase order will be classified as an unauthorized purchase.

B. SERVICE CONTRACTS

Service contracts for which the contractor will perform work while on city property must be accompanied by a standard contract or written agreement. The contract or agreement must follow signature protocols and contain all necessary insurance documentation.

C. EMERGENCY PURCHASES

In emergencies, the Department Head or his/her designee may purchase supplies or services directly from any vendor when immediate procurement is essential to prevent delays in work which may affect the life, health, or safety of city employees or citizens.

Staff shall exercise good judgment and use established vendors when making emergency purchases whenever possible, obtaining the best possible price and limiting purchases to those items directly emergency-related. Not anticipating needs does not constitute an emergency situation.

In the event that construction or repair work must be done on an emergency basis or if an apparatus, supplies, materials or equipment must be purchased on an emergency basis, the City Manager may approve such purchases following the guidelines above without approval by the Board of Commissioners, as long as the expenditure is below the informal bidding threshold set in N.C.G.S. §143-129. The expenditure must be reported to the Board along with the circumstances justifying such expenditure without approval at the next regularly scheduled Board meeting.

D. ANNUAL CUT-OFF DATE FOR PURCHASE ORDERS

Purchase requests for materials, supplies, services, and equipment (not included in blanket purchase orders or service contracts) for the current fiscal year must be submitted no later than May 30. This procedure affords the Finance Department the opportunity to complete fiscal year end activities in a timely manner.

E. STATE OF NORTH CAROLINA PURCHASE CONTRACT

City staff may utilize the State of North Carolina Department of Administration Purchase and Contract Division whenever possible for procurement of capital and non-capital items. This system expedites the purchase of goods, offers pricing compatible with quotes received from formal and informal bids, and satisfies North Carolina General Statutes.

F. PROFESSIONAL SERVICES

Normal competitive procedures cannot be utilized in securing professional services such as attorneys, engineers, surveyors, planners, and other professionals who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. Procurement of these services shall follow all applicable procedures as required by North Carolina General Statutes.

G. ELECTRONIC FUND TRANSFERS

Electronic Fund Transfers in the form of Automated Clearing House (ACH) payments may be used for rents, payments to financial institutions (credit card vendors, banking etc.) and other professional services. The finance department will verify that the necessary appropriations are available for each ACH payment prior to the draft date and record the payment into the general ledger on the draft date.

VI. CREDIT CARDS

The purpose of this purchasing procedure is to provide for the use of credit cards for small value,

emergency purchases, or for purchases online which do not accept purchase order numbers (although the steps and policies governing purchases over the \$500 threshold shall still be followed as outlined above).

A. APPROVED USES

1. The items and/or services to be purchased are for the official use of the City of Creedmoor.
2. The Finance Officer shall periodically review card activity and may recommend revoking of use privileges from the cardholder, if circumstances warrant.
3. A timely response to each of the elements governing the use of cards is required from those concerned; Failure to do so will result in past due transactions appearing on the statements and possible purchasing limits being exceeded. Employee absence should be anticipated and arrangements put in place so that the process flow will not be delayed.
4. The Finance Officer and city administration are to be notified immediately when a card is lost or stolen.

B. ISSUANCE OF CREDIT CARDS

1. City administrators shall retain separate cards for general use upon request.
2. Credit cards may be issued to individual employees only with the approval of the Finance Officer and applicable Department Head.
3. All employees being issued a city credit card must sign the "Cardholder's Agreement" (Exhibit B) verifying agreement to conditions of use and acknowledging receipt of card.

C. USE OF CREDIT CARDS

1. Credit card holders will receive a weekly Budget-to-Actual Report for each department for which they are authorized to make credit card purchases.
2. Before making a credit card purchase the cardholder will be required to check the Budget-to-Actual Report to ensure the unencumbered balance in the line item to be used can cover the amount of the purchase.
3. Once a purchase is made the card holder should immediately obtain a vendor's receipt and/or copies of mail orders and turn them in to the finance department to be recorded in the encumbrance system.
4. As a part of the finance department's weekly check process the credit card encumbrance system will be updated. Once the update has been completed each card holder will be sent an updated Budget-to-Actual Report.
5. If a department's total unencumbered budget appropriation falls below the amount requiring a purchase order all card holders in the department will be notified and credit card purchases will be prohibited until further instructed by the finance department.
6. The satisfactory receipt of goods or services remains the responsibility of the purchaser.

VII. DELIVERY AND PERFORMANCE

A purchase order must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions should clearly define the delivery and performance requirements of the services, supplies, or equipment.

The importance of the delivery schedule will be emphasized to the vendor. If several items are required by the purchase order, there may be a different delivery schedule for each item.

A. RECEIPT OF GOODS

Staff responsible for receipt of ordered goods shall initial and forward the packing slip to the Accounting Technician as acknowledgement that all goods have been received.

B. PARTIAL DELIVERIES

Some purchase orders may list several items and the vendor may complete timely delivery on only certain items, which are referred to as "partial deliveries". Upon receipt of a partial delivery, staff will sign the delivery receipt or packing slip, indicating that it is a partial delivery, and forward to

the Accounting Technician.

C. NON-PERFORMANCE

If a vendor fails to meet any requirements of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

VIII. INSPECTION AND TESTING

Life and safety, as well as successful operation of expensive equipment and supplies, may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found, or if the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

A. REJECTION

To protect the city's rights in the event of rejection, the receiver shall inform the vendor immediately. Reasons for the rejection must be documented and maintained by the Department Head.

B. DAMAGED GOODS

Upon receipt, the responsible staff member should immediately inspect the goods or materials to detect any visible damage. When it is apparent that the extent of damage causes the goods to be worthless, they will not be accepted. It is necessary that all damage, including evidence of concealed damage, be reported to the vendor and written documentation maintained by the Department Head.

IX. VENDOR RELATIONS

Good vendor relations are valuable business assets established through mutual confidence and satisfactory transactions between buyer and seller. An important factor toward promoting and preserving these relations is a clear understanding of the procurement process between buyer and seller.

If a department experiences difficulty with and/or has a complaint with a particular vendor, the Department Head shall document the concerns to the **Assistant** City Manager, being as specific as possible and including details of the circumstances, dates, personnel involved, and contact information.

X. OUTSTANDING PURCHASE ORDERS

The Accounting Technician shall review outstanding purchase orders on a regular basis to determine if vendors are delinquent in shipping the items requested. The Accounting Technician shall request that the Department Head contact vendors concerning any delinquent delivery. The Accounting Technician shall contact vendors concerning invoice discrepancies.

XI. EXHIBITS

- EXHIBIT A Request to Purchase Form
- EXHIBIT B Cardholder's Agreement Form
- EXHIBIT C Minority Business Outreach Plan for Building Construction or Repair Contracts

Exhibit A

REQUEST TO PURCHASE



CITY OF CREEDMOOR
P.O. BOX 765
CREEDMOOR, NC 27522
PHONE (919) 528-3332

Date _____

Vendor:

Account Line Item	Amount

Quantity	Description	Unit Price	Total
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 0.00
			\$ 0.00

Department Head/Authorized Signature _____ Finance Officer Signature _____

SUBMIT

Name on Card _____

Card Issuer _____

Issued to _____ Card # _____ (last 4 numbers only)

I, _____, agree to the following regarding the City of Creedmoor's Credit/Charge Card Program:

- I understand that I am being entrusted with access to one or more City Credit Card(s) in order to make financial commitments on behalf of the City;
- I will be responsible to restrict my purchases to approved City of Creedmoor activities;
- I understand that under no circumstances will I use the City's Credit/Charge Card Program to make personal purchases for myself or for others;
- From time to time, other employees within my department may need to use the card for valid purposes. I understand that I am assuming responsibility for those purchases;
- I will be responsible for the safekeeping of the City of Creedmoor Credit Card issued to me and, if lost or stolen, I will report its loss immediately to my supervisor and the Finance Officer;
- I will follow the established procedures for using the credit card. Failure to do so may either result in revocation of my use privileges or other disciplinary actions by the City of Creedmoor;
- I agree to return the credit card to the city upon termination of my privileges;
- I agree that, should I violate the terms of the Agreement and use the credit card for personal use or gain, I will reimburse the City of Creedmoor for all incurred charges and any fees (including attorney's fees and expenses) related to the collection of these charges; and
- *I understand that the use of the City of Creedmoor Credit Card to procure goods and services for other than the official use of the City of Creedmoor is fraudulent use. An employee guilty of fraudulent use will be dismissed for detrimental personal conduct and will be subject to legal action.*

I have read, understand, and agree to the conditions as stated above.

Cardholder Signature

Date

Finance Officer Signature

Date

Exhibit C

OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN THE CITY OF CREEDMOOR'S BUILDING CONSTRUCTION OR REPAIR CONTRACTS

In accordance with G.S. 143-128.2, these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on the City of Creedmoor's building construction or repair projects in the amount of \$300,000 or more. The outreach plan shall also be applicable to the selection process of architectural, engineering, and Construction Manager-at-Risk services.

The City of Creedmoor has a current verifiable goal of ten (10) percent for minority participation for building construction or repair projects.

SECTION A: INTENT

It is the intent of these guidelines that the City of Creedmoor, as awarding authority for building construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of ten (10) percent for participation by minority businesses in each building construction or repair project as required by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

SECTION B: DEFINITIONS

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America;
or
 - e. Female
2. Minority Business (MBE) - means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637: Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.
4. Owner – City of Creedmoor

5. Designer – Any person, firm, partnership, or corporation which has contracted with the City of Creedmoor to perform architectural or engineering work.

6. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

7. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services, including construction, and obligating the buyer to pay for them.

8. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the City of Creedmoor to perform building construction or repair work.

9. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

SECTION C: MINORITY OUTREACH PLAN AND GUIDELINES

Owner

The following strategies may be used to encourage participation from MBEs.

1. Work with minority-focused and small business groups that support MBE inclusion in the solicitation of bids.
2. Place emphasis on the importance of soliciting certified MBE firms for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from MBE firms.
3. Provide detailed information to majority contractors concerning the bidding and good faith efforts requirements by holding meetings with the contractors.
4. Assess the effectiveness of the MBE program, and identify opportunities to enhance it by evaluating MBE participation and compliance and reviewing the good faith efforts provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified MBE firms that have expressed an interest in the City of Creedmoor's projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors who plan to participate in the project.
6. Build new and strengthen existing business relationships through networking. Continue communicating with other North Carolina public agencies to find out how their MBE outreach programs are working and to share "best practices" and ideas to improve programs.
7. Enhance the City of Creedmoor's web page by including the outreach plan and guidelines, listing good faith efforts, creating links to MBE resources, and creating awareness of specific subcontracting opportunities.
8. Make available to minority-focused agencies a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.

9. Maintain or continue to maintain a database specifically for MBE firms and majority contractors to ensure those firms wishing to do business with the City of Creedmoor have access to up-to-date information.
10. Advertise upcoming bid opportunities in minority-focused media.
11. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

Designer

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
2. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
3. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
4. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) – (i.e. bidders’ proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.
5. During construction phase of the project, review documentation for contract payment to MBEs (e.g. state form “Appendix E: MBE Documentation for Contract Payment” <https://ncadmin.nc.gov/document/appendix-e-mbe-documentation-contract-payments>) for compliance with minority business utilization commitments. Submit this form with monthly pay applications to the Owner.

Prime Contractor(s), CM at Risk, and Its First-Tier Subcontractors

Under the single-prime bidding, the separate-prime bidding, construction manager at risk, and alternative contracting methods, contractor(s) will:

1. Attend the scheduled pre-bid conference.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. During the bidding process, comply with the owner’s requirements listed in the proposal for minority participation.
4. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
5. Make documentation showing evidence of implementation of Prime Contractor, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by the City of Creedmoor, upon request.
6. Upon being named the apparent low bidder, the bidder shall provide one of the following: (1) an affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; or (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented including any advertisements, solicitations, and evidence of other

specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.

7. The contractor(s) shall identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
8. The contractor(s) shall submit with each monthly pay request(s) and final payment(s) documentation for contract payment to MBEs (e.g. state form "Appendix E: MBE Documentation for Contract Payment" <https://ncadmin.nc.gov/document/appendix-e-mbe-documentation-contract-payments>) for designer's review.
9. During the construction of a project, at any time, if it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing, of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
10. If during the construction of a project additional subcontracting opportunities become available, the contractor shall make a good faith effort to solicit sub-bids from minority businesses.

Minority Business Responsibilities

Certification

While minority businesses are not required to become certified in order to participate in the City of Creedmoor's building construction or repair projects, it is recommended that they become certified and take advantage of appropriate technical assistance that is made available. Certification can be obtained from the following agencies:

North Carolina Department of Administration Historically Underutilized Business (HUB) certification
North Carolina Department of Transportation Minority/Disadvantaged/Women-owned Business certification
Small Business Administration 8(a) certification
Other governmental agencies on a case-by-case basis

Other Responsibilities

Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

SECTION D: MINIMUM COMPLIANCE REQUIREMENTS

All written statements or affidavits made by the bidder shall become a part of the agreement between the Contractor and the City of Creedmoor for performance of the contract. Failure to comply with any of these statements, affidavits, or with the minority business guidelines shall constitute a breach of the contract. A finding by the City of Creedmoor that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete shall also 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 Creedmoor whether to terminate the contract for breach.

In determining whether a contractor has made good faith efforts, the City of Creedmoor will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points for good faith efforts. Failure to file a

required affidavit or documentation demonstrating that the contractor made the required good faith effort, is grounds for rejection of the bid. Good faith efforts include:

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 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. (10 points)
2. Making the construction plans, specifications, 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. (10 points)
3. Breaking down or combining elements of work into economically feasible units to facilitate minority participation. (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 of minority businesses. (10 points)
5. Attending any pre-bid meetings scheduled by the public owner. (10 points)
6. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (20 points)
7. Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Reasons for rejection of a minority business based on lack of qualification should be documented in writing. (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. (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. (20 points)
10. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands. (20 points)

SECTION E: DISPUTE RESOLUTION PROCEDURES

Pursuant to G.S. 143-128 (f1), all disputes involving contractors on a building construction or repair project with the City of Creedmoor shall be resolved pursuant to State of North Carolina Policy G.S. 143-135.26(11).

SECTION F: In addition to these guidelines, there will be issued with each construction bid package provisions for providing minority business participation in the City of Creedmoor projects.