

Exhibit A

Fayetteville Public Works Commission



Small Local Supplier Program

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I. INTRODUCTION

PURPOSE

The Fayetteville Public Works Commission (PWC) is committed to promoting the utilization of small, local businesses in the Fayetteville Metropolitan Statistical Area by increasing opportunities for those businesses to participate in PWC procurements.

To achieve this purpose, PWC has established this Small Local Supplier Program (SLS Program or Program) to support local utilization, encourage capacity development, and offer procurement opportunities to business enterprises that meet the eligibility requirements of the SLS Program.

AUTHORITY

Through Session Law 2021-66, titled “An Act Authorizing the Fayetteville Public Works Commission to Establish a Small Business Enterprise Program.” the North Carolina General Assembly amended PWC’s Charter to allow the Commission to establish a race- and gender-neutral small business enterprise program to promote the development of small businesses in the Fayetteville Metropolitan Statistical Area and to enhance opportunities for small businesses to participate in Commission procurements.

The SLS Program is intended to supplement and not replace the requirements of N.C.G.S. §§143-128.2, 143-131(b), or 143-135.5. Any goals or efforts established to achieve veteran, minority, and women's business participation consistent with the requirements of N.C.G.S. §§143-128.2, 143-131(b), and 143-135.5 shall take precedence over goals for SLS Program participation. In adopting Session Law 2021-66, the North Carolina General Assembly recognized that the SLS Program established shall be deemed consistent with the public policy of the State of North Carolina to promote and utilize small and underutilized business enterprises as set forth in N.C.G.S. §§143-128.2, 143-128.3, and 143-135.5.

DEFINITIONS

Award	The final selection of a bidder for a specified procurement.
Bidder	A person or entity that submits a bid for a PWC procurement. A bid may be in response to the following, but not limited to an Invitation for Bid (“IFB”), Request for Proposal (“RFP”), or Request for Qualifications (“RFQ”).
Fayetteville Metropolitan Statistical Area (FMSA)	Currently defined to include Cumberland, Harnett, and Hoke counties. The definition of the FMSA is the responsibility of the U.S. Office of Management and Budget (OMB), and the definition of the FMSA may be modified from time to time consistent with any applicable updated guidance from OMB.
Goal(s)	A non-mandatory, annual aspirational percentage goal for SLS participation established for specific areas of PWC procurements. Goals for SLS subcontract participation may be established on a contract-by-contract basis.
Good Faith Efforts	<p>Documentation of the Bidder’s intent to comply with goals, requirements, and procedures of the SLS Program, including, but not limited to, the following:</p> <p>(1) documentation within a bid submission or proposal reflecting the Bidder’s commitment to comply with a specific goal(s) of the SLS Program; or</p> <p>(2) documentation of efforts made towards achieving Goal(s) of the SLS Program (including, but not limited to, timely advertisements in appropriate trade publications and publications of wide general circulation; solicitations of bids from SLSs listed in Directory of Suppliers; correspondence from SLSs documenting unavailability to perform specified portions of a contract; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLSs; documentation of efforts to</p>

Independently Owned, Managed, and Operated	<p>assist SLSs with obtaining financing, bonding, or insurance required by the Bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses to identify qualified and available SLS subcontractors.)</p> <p>Ownership of an SLS must be direct, independent, and by individuals. Businesses that are owned by other businesses or by the principals or owners of other businesses that cannot qualify under the SLS eligibility requirements shall not be eligible to participate in the SLS Program. Moreover, the day-to-day management of the SLS firm must be direct and independent of the influence of any other businesses that cannot qualify under the SLS eligibility requirements.</p>
Industry Categories	<p>Procurement groupings for PWC procurements for purposes of the administration of the SLS Program will include Architecture and Engineering, Construction, Professional Services, and Goods & Services (manufacturing, wholesale and retail, and non-professional services). PWC utilizes the North American Industry Classification System (NAICS) to classify procurement opportunities and establish goals for industry categories.</p>
Prime Contractor	<p>The Bidder to which PWC awards a purchase order or contract for purposes of providing goods or services to PWC.</p>
Responsible	<p>A bidder's quality, fitness, capacity, and capability to perform the requirements of the proposed work.</p>
Responsiveness	<p>A bidder's compliance with bidding instructions and North Carolina Law.</p>
Small Local Supplier (SLS)	<p>A person or entity that satisfies all the requirements listed in Section III – Eligibility Standards for SLS Certification.</p>

OBJECTIVES

To meet the objectives of the SLS Program, PWC is committed to:

- A. Increasing the participation of SLSs in PWC procurements.
- B. Increasing PWC's local economic impact by encouraging reinvestment of procurement dollars into the FMSA.
- C. Evaluating the progress of the SLS Program regularly using accumulated availability and utilization data to determine specific SLS Program provisions that require modification, expansion, and/or restriction.
- D. Providing accountability and accuracy in reporting SLS Program results by tracking bid opportunities, spend utilization and identifying and publishing a directory of SLSs.

II. PROGRAM ELEMENTS

PWC will utilize the following elements to promote and strive to meet the objectives of the SLS Program. The application of the following elements shall be applied consistently and may be adjusted by PWC as necessary to achieve maximum effectiveness of the SLS Program.

CONSTRUCTION AND REPAIR CONTRACTS

FORMAL CONSTRUCTION AND REPAIR CONTRACTS

- A. Construction and repair contracts with an estimated cost of \$500,000.00 and above shall encourage SLS subcontractor participation within the bidding documents.
1. Bidders must either achieve the SLS subcontractor goal on the specific project or demonstrate good faith efforts as required by the bid instructions to receive any incentives available for SLSs.
 2. Bidders shall submit at the time of bid, and on the applicable form, the name of all SLS subcontractors, the percentage of subcontracting, and the work to be performed by any SLS along with any other information required by the bidding documents. SLSs must have submitted an application for SLS certification prior to bid opening for the specific project.
 3. A Bidder that has been certified as a SLS may count its own participation on the project toward achieving the aspirational goal for the work to be performed by the SLS for the project.
 4. The awarded bidder shall submit SLS participation information upon each pay application using the applicable form.

INFORMAL CONSTRUCTION AND REPAIR CONTRACTS

- A. Construction and repair contracts with an estimated cost between \$300,000.00 and \$499,999.99 shall encourage SLS participation within the bidding documents. Construction and repair contracts with an estimated cost between \$30,000.00 and \$299,999.99 will encourage SLSs participation on a contract-by-contract basis, as determined by PWC.
1. If SLS provisions are included in the bidding documents, Bidders must achieve the aspirational SLS goal or sufficient proof the Bidder's good-faith efforts to meet the SLS goal to receive any incentives available for SLSs.
 2. If SLS provisions are included in the bidding documents, Bidders shall submit at the time of bid, on the appropriate form, the name of all SLS

subcontractors, the percentage of subcontracting, and the work to be performed by any SLS along with any other information required by the bidding documents. SLSs must have submitted an application for SLS certification prior to bid opening for the specified project.

3. A Bidder that has been certified as a SLS may count its own participation in the project toward achieving the aspirational goal for the work to be performed by an SLS for the project.
4. The awarded bidder shall submit SLS participation information upon each pay application using the applicable form.

OTHER CONSTRUCTION AND REPAIR CONTRACTS

Construction and repair contracts with an estimated cost of less than \$30,000.00 may include SLS requirements. SLS tracking will occur through the issuance of Purchase Orders to SLSs. Any SLS participation information in such procurements shall also be included on any non-SLS's pay application.

PROFESSIONAL SERVICES CONTRACTS

PWC will use good-faith efforts to notify SLSs, using the Directory of SLSs, of professional service opportunities to submit qualifications for architectural, engineering, surveying, and construction management at risk services. PWC may set contract-by-contract goals to enhance the utilization of SLSs for professional services. SLS participation may also be included as evaluation preference when selecting a person or entity for applicable professional services and such participation may be used as a tiebreaker when all else is equal between the professional service providers.

GOODS AND SERVICES CONTRACTS

FORMAL PURCHASE CONTRACTS

Purchases with an estimated cost equal to or greater than \$90,000.00 shall encourage SLS subcontractor participation within the bidding documents. Any SLS participation shall be specified in the Bidder's submission, and such information will be tracked by PWC for reporting purposes.

INFORMAL PURCHASE CONTRACTS

Purchases with an estimated contract cost of between \$30,000.00 and \$89,999.99 shall encourage SLS subcontractor participation within any applicable bidding documents. Any SLS participation shall be specified in the Bidder's submission, and such information will be tracked by PWC for reporting purposes.

PURCHASE CONTRACTS

Where applicable, purchases with an estimated contract cost of less than \$30,000.00 shall include a provision within the bidding document to encourage SLS participation. Any SLS participation shall be specified in the Bidder's submission, and such information will be tracked by PWC for reporting purposes.

SERVICE CONTRACTS

PWC will use good-faith efforts to notify SLSs, using the Directory of SLSs, of service opportunities. SLS participation may be used as a tiebreaker when all else is equal between providers of services that are being evaluated. Any SLS participation shall be noted within the award documents and tracked for reporting purposes.

PWC shall encourage any procurement for soft services (e.g., janitorial, landscaping, catering) to be first solicited from SLSs. If no qualified, responsible, or applicable SLSs are available for the soft service opportunity, non-SLS firms may be solicited.

III. ELIGIBILITY STANDARDS FOR SLS CERTIFICATION

GENERAL DESCRIPTION

PWC retains sole discretion to determine whether an applicant shall receive certification as a SLS (SLS Certification). Applicants for SLS Certification must certify that they comply with all requirements listed in this Section III. Any false statement or representation by an applicant seeking SLS Certification may result in the applicant being barred from participating in the SLS Program as well as other applicable consequences imposed by PWC. PWC will use the following standards to determine whether an applicant shall be certified as a SLS:

SLS Standards:

An SLS is person or entity that simultaneously and continuously satisfies all of the following requirements:

- (a) *Size:* The persons or entities shall meet the size standards established by the U.S. Small Business Administration's ("SBA") Office of Size Standards for the applicable primary North American Industry Classification Code, as set forth in 13 C.F.R. §121.201, and as updated by the SBA.
- (b) *Business Location:* Maintains a physical place of business (whether leased or owned) in the FMSA and meets the requirements of (b)(1) and (b)(2).
 - (1) For persons or entities with physical locations both inside and outside of the FMSA, the physical location(s) inside the FMSA must account for at least fifty percent (50%) of the applicant's total gross revenue from all locations; and
 - (2) At least twenty-five percent (25%) of the applicant's employees are residents of the FMSA, as determined by the street address of each employee's primary residence.

(for Business Location examples, see Section VI. Attachments C. Business Location Examples)

- (c) *Integrity:* PWC will evaluate an applicant's integrity based on knowledge and information of any applicant's past performances, prior work, references, and other information as applicable. PWC will also consider any conduct of an applicant to attempt to evade or subvert the intent or requirements of the SLS Program. Examples include, but are not limited to:

- (1) A person or entity that would otherwise be deemed ineligible establishes other businesses for the distinct purpose of meeting the size requirement and participating in the SLS program.
 - (2) A SLS that bids and is awarded a project with the intent to subcontract all or a majority of the work to a non-SLS.
 - (3) A SLS consistently bids and is awarded contracts but does not have the resources to complete the project.
- (d) *Cooperation:* SLSs and applicants seeking SLS Certification shall cooperate fully with PWC's requests for information and documentation relevant to the certification process. Failure or refusal to provide requested information and documentation may result in denial or removal of SLS Certification.
- (e) *Other:* Applicants that are determined to be ineligible, or have otherwise been prohibited, for participation in the SLS Program may apply for certification after the disqualifying condition(s) cease to exist.

Obtaining SLS Forms

Forms, Change Forms, Information Change Request Form, Renewals, and Complaint Forms for the SLS Program may be obtained from the www.faypwc.com, PWC, or the attachments to the SLS Program.

Submitting Forms

- (a) *Submittal:* Forms may be submitted directly to PWC at (TBD). An applicant seeking SLS Certification shall:
- 1) Submit fully completed forms with proper authorization. Do not leave blanks; use N/A if the requested information is not applicable and provide an explanation if the information is not available at the time of application.
 - 2) Submit forms via webform, mail, facsimile, or e-mail (in .pdf format).

PWC will inform an applicant in writing of its decision as to SLS Certification.

- (b) *Incomplete forms:* Incomplete forms will be returned to the applicant without a decision as to SLS Certification. An incomplete form is one in which the requested information necessary to make a SLS Certification determination is not provided.
- (c) *Information Change Request:* SLS shall maintain current, updated information with PWC. If a SLS needs to correct or update any information that may affect the SLS' ability to meet any of the SLS Certification requirements or any material change in the information provided in the application form, an *Information Change Request Form* shall be submitted to PWC within 30 days of the occurrence of the change. This form should also be used to provide correct and up to date information

for the Directory of Suppliers.

- (d) *W-9 Form*: An applicant that does not have an iSupplier profile with PWC must submit a W-9 form with its application. Additionally, any changes to an applicant's iSupplier profile will require a revised W-9 form to be submitted with the change request form.

(e) *Annual Renewal*:

- 1) Each year on the anniversary of the SLS certification date, a SLS submits a new SLS form that declares the SLS meets the certification standards of the program. As a courtesy, PWC will send a reminder letter approximately two (2) weeks prior to the anniversary date. The SLS is responsible for submitting a new form by the anniversary date, regardless of whether the reminder letter was received.
- 2) If the eligibility standards are met, PWC will send an approval letter with the updated anniversary date for renewal purposes.
- 3) If documentation has not been received by the anniversary date the supplier's SLS certification will be removed.
- 4) Suppliers that are found ineligible for participation, or have otherwise been prohibited from participation, may resubmit for consideration after the disqualifying condition ceases to exist.

- (f) *Complaint Form*: If a third party has reason to believe that a SLS is not eligible for the SLS Certification status, it may submit an SLS Eligibility Complaint Form.

The form may be downloaded or submitted through www.faypwc.com or sent to PWC at (TBD).

If, based on notification by an applicant or SLS of a change in its circumstances or other information that comes to PWC's attention, it is determined that there is reason to question the person or entity's eligibility in the program, PWC reserves the right to investigate that person or entity for compliance with SLS Certification and the SLS Program and to request such information and documentation as necessary to make such determination.

Cooperation

All participants in the SLS Program, including but not limited to SLSs, applicants for SLS Certification, and complainants shall cooperate fully and promptly with PWC in the certification process, compliance reviews, investigations, and other requests for information and documentation. PWC may remove a person or entity's SLS Certification or deem an applicant ineligible for SLS Certification if the person or entity does not provide the requested information or documentation as requested or within the required timeframe.

Removal of SLS Certification Status

(a) A person or entity's SLS Certification may be removed for, but not limited to, any of the following reasons:

- a. Failing to meet the standards simultaneously and continuously for SLS Certification as set forth in this SLS Program.
- b. Failing to cooperate with PWC's request for information or documentation.
- c. Attempting to evade or subvert the intent of the SLS Program in any manner.

Appeals Process for Denial of Certification or Decertification of an SLS

Appeal of Denial of Certification

The appeal process may be initiated by the applicant upon receipt of a SLS Certification denial correspondence by PWC. The correspondence will provide the reason(s) why the application was denied, provide appeal procedures, and a timeline to appeal the decision. The applicant shall inform PWC ***in writing*** of its intent to appeal the denial decision ***within 30 days*** from the date of the notification sent by PWC.

PWC will inform the applicant of a date and time that is convenient for both parties to present any additional information in person or via documentation submittal for further review by the panel, which shall be selected by PWC's CEO/General Manager. The panel will review all facts of the record and render a decision regarding SLS certification eligibility.

If the decision of denial is reversed, correspondence will be sent to the applicant, confirming SLS certification. If the decision is upheld by PWC, a letter will be sent to the applicant stating the decision. This decision will be considered final for purposes of SLS Certification within PWC.

Appeal of Removal of Certification

If a SLS is decertified from its SLS status, the appeal process may be initiated by the decertified SLS upon receipt of decertification correspondence by PWC. The correspondence will provide the reason(s) why the certification was removed, provide appeal procedures, and a timeline to appeal the decision. The applicant shall inform PWC ***in writing*** of its intent to appeal the decertification decision ***within 30 days*** from the date of the notification sent by PWC.

PWC will appoint a hearing panel consisting of a chairperson and at least two additional members with knowledge of the SLS Program. PWC will inform the applicant of a date and time that is convenient for both parties to present any additional information in person or via documentation submittal for further review by the panel. The panel will review all facts of the record and render a decision regarding SLS certification eligibility.

If the decision of denial is reversed, correspondence will be sent to the applicant,

reinstating SLS certification. If the decision is upheld by the hearing committee, a letter will be sent to the applicant stating the decision. This decision will be considered final for purposes SLS Certification within PWC.

Directory of Suppliers

PWC will maintain a Directory of Suppliers, which will identify all SLSs and the contact information for the SLSs. All SLSs are responsible for reviewing and ensuring the information provided in the Directory of Suppliers is complete and accurate. For changes to the information displayed on the Directory of Suppliers, the SLS shall submit an *Information Change Request Form* to PWC.

Compliance and Enforcement

Any person who believes PWC has failed to comply with its obligations under these guidelines may file a written complaint to PWC Procurement Department. The complaint shall be filed no later than 90 days after the date of the alleged violation or the date on which the person learned of a continuing course of conduct in violation of these guidelines.

IV. ESTABLISHMENT OF SLS GOALS

ANNUAL ASPIRATIONAL SLS GOALS

Annual aspirational goals for the utilization of SLSs on PWC procurements shall be established each year by PWC staff.

Within the first 60 days of each fiscal year, PWC staff shall review utilization data of the immediately prior fiscal year and analyze industry trends and projected procurements for the upcoming fiscal year. Aspiration goals for SLS participation will then be established.

Goals for SLS participation shall be set using, but not limited to, the following information:

1. Planned PWC procurement opportunities.
2. The availability of SLSs within the FMSA by NAICS codes related to PWC procurement opportunities.
3. Industry trends associated with procurement opportunities.

Procurement SLS goals should be included in procurement activities as described in Section II Program Elements.

V. COUNTING PARTICIPATION OF SLSS

The entire portion of a construction contract that is performed by an SLS shall be counted for SLS participation purposes, including the cost of equipment purchased or leased using the SLS' funds to complete any portion of work for the contract.

The entire amount of fees or commissions charged by a SLS for providing a *bona fide* service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of the contract shall be counted; provided, however, that such fee is reasonable and not excessive as determined by PWC by comparing such fee with fees customarily charged for similar services.

When a SLS performs as a participant in a Joint Venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the Joint Venture's Contract that the SLS actually performs with its own workforce and for which it is separately at risk shall be counted.

One hundred percent (100%) of the cost of the materials or supplies obtained from a SLS Manufacturer or Regular Dealer shall be counted. One hundred percent (100%) of the fees or transportation charges for the delivery of materials or supplies required on a job site shall be counted only if the payment of such fees is a customary industry practice and are commensurate with fees customarily charged for similar services. The cost of the materials and supplies shall not be counted.

If a SLS is decertified during performance of a contract, the dollar value of work performed under that contract with the SLS after it has been decertified shall not be counted.

In determining achievement of a Project Specific Goal, the participation of a SLS shall not be counted until that amount has been paid to the SLS.

Commercially Useful Function

Only expenditures to a SLS performing a Commercially Useful Function shall be counted toward SLS participation goals. A "Commercially Useful Function" means that the SLS has a necessary and useful role in the completion of the applicable project. To determine whether a SLS is performing a Commercially Useful Function, PWC 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 other relevant factors. A SLS does not perform a Commercially Useful Function if its role is limited to that of an extra participant in the contract through which funds are passed in order to obtain the appearance of SLS participation. If a SLS subcontracts a greater portion of the work of a contract than would be expected based on normal industry practice, it is presumed not to perform a Commercially Useful Function. A SLS may present evidence to rebut this presumption.

SLS Replacement

A Bidder shall not alter its Schedule of Participation or substitute subcontractors identified in the Schedule of Participation without the prior written approval of PWC. When applicable unauthorized changes or substitutions shall be considered a violation of the SLS Program and may constitute grounds for rejection of the bid or proposal or cause termination of the executed contract for breach and/or subject the Bidder to contract penalties or other sanctions.

All requests for changes or substitutions of the subcontractors named in the Schedule of Participation shall be made to PWC in writing and shall clearly and fully set forth the basis for the request.

The facts supporting the request must not have been known nor reasonably should have been known by the Bidder prior to the submission of the Schedule of Participation.

Substitutions of the subcontractor(s) shall be permitted only on the following basis:

- (a) Unavailability after receipt of reasonable notice to proceed.
- (b) Failure of performance.
- (c) Financial incapacity.
- (d) Refusal by the subcontractor to honor the bid or proposal price.
- (e) Mistake of fact or law about the elements of the scope of work of a solicitation where agreement upon a reasonable price cannot be reached.
- (f) Failure of the subcontractor to meet insurance, licensing, or bonding requirements; or
- (g) The subcontractor's withdrawal of its bid or proposal.

Where the Bidder has established the basis for the substitution to the satisfaction of PWC, the Bidder shall make Good Faith Efforts to fulfill the Schedule of Participation if the Project Specific Goals will not otherwise be met. The Bidder may seek the assistance of PWC in obtaining a substitute SLS subcontractor. If the Project Specific Goal cannot be reached and the Bidder has provided sufficient proof of Good Faith Efforts, the Bidder may substitute with a non-SLS.

If a Bidder seeks to engage a subcontractor for any scope of work that was not previously disclosed in the Schedule of Participation, the Bidder shall obtain written approval from PWC to modify the Schedule of Participation and must make Good Faith Efforts to ensure that SLSs have a fair opportunity to bid on the scope of work.

If the Bidder is determined to be in noncompliance with the SLS Program or the requirements of the contract and fails to correct such noncompliance within ten (10) working days after written notification, PWC will withhold five percent (5%) of the amount of completed work on all monthly payments until the Bidder/Participant has come into compliance.

Reporting SLS Participation

PWC will encourage all contractors, suppliers, service providers, consultants, and other vendors that perform any work for PWC to provide PWC with an accounting of payments made to all SLSs, including material suppliers and contractors at all levels (prime, subcontractor, or second-tier subcontractor). Notwithstanding, specific PWC procurements may require such reporting and any such requirements will be included in the applicable bidding documents for the specific project. This accounting can be furnished to PWC by submitting **the SLS DOCUMENTATION FOR CONTRACT PAYMENTS** form for any given month by the end of the month following such payments.

While each contractor (prime, subcontractor, 2nd tier subcontractor) is responsible for accurate accounting of payments to SLSs for applicable projects, it shall be the prime contractor's responsibility to report all monthly and final payment information in the correct reporting manner.

Failure on the part of the contractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from further SLS Program participation until the required information is submitted.

Failure on the part of any subcontractor to submit the required information in the time frame specified may result in the disqualification of that subcontractor and any affiliate companies from being approved from SLS Program participation until the required information is submitted.

At any time, PWC can request written verification of subcontractor payments.

VI. SLS PARTICIPATION INCENTIVES

SPECIFICATION REVIEW/MATERIAL REVIEW INPUT

As part of the SLS Program, SLSs will have the ability to provide direct input on PWC specifications for applicable projects. SLSs will be allowed to submit ideas and/or concerns to aid PWC in creating specifications and recommending material that is conducive to SLS participation in PWC procurement opportunities. Recommendations from SLSs will be relayed directly to the Specification and Material Review Committee for consideration.

EXTERNAL/INTERNAL SLS AWARDS

PWC may institute incentives to SLSs to support, encourage, and achieve the goals of the SLS Program.

TECHNICAL ASSISTANCE

SLSs will have the ability to utilize the Small Business and Technology Development Center (SBTDC) at Fayetteville State University. The SBTDC will aid SLS firms in attaining business certifications, capability statements, event preparation and other needs determined by the SLS to improve their capacity to successfully contract with PWC.

30 PROCUREMENT OPPORTUNITIES UNDER \$30,000

PWC will identify annually at least 30 procurement opportunities, the cost of each being under \$30,000.00, for solicitation only to SLSs. In the event no SLSs bid on the opportunity or there are no qualified, responsible SLSs for such procurement, that opportunity will then be solicited to non-SLSs. The number of opportunities may be adjusted annually based on the effectiveness of the initiative and the achievement of aspirational goals.

VI. ATTACHMENTS

A. BID FORMS

The following form shall be used by Bidders for applicable procurements that include SLS provisions. PWC staff may revise the forms from time to time for compliance purposes and to further the effectiveness of the SLS Program.

Attach to Bid Attach to Bid Attach to Bid Attach to Bid Attach to Bid

FAYETTEVILLE PUBLIC WORKS COMMISSION SMALL LOCAL SUPPLIER (SLS) COMPLIANCE PROVISIONS

SLS CONTRACT PROVISIONS (CONSTRUCTION)

APPLICATION:

The requirements of the SLS Program for participation in PWC's formally bid construction contracts are hereby made a part of the Contract Documents. These requirements shall apply to such contracts regardless of ownership. Copies of the SLS Program may be obtained from:

Fayetteville Public Works Commission
Procurement Department
P.O. Box 1089
Fayetteville, North Carolina 28302
Phone (910) 223-4333
Fax (910) 483-1429
e-mail: TBD

SLS COMPLIANCE REQUIREMENTS

1. The Bidder shall provide, **with the bid**, properly executed copies of the SLS AFFIDAVITS (CONSTRUCTION). Such submission, shall indicate that the Bidder understands and agrees to the incorporated SLS Program provisions.
2. The Bidder shall provide **with the bid**:
 - Affidavit A – Intent to Perform Contract with Own Workforce;
OR
 - Affidavit B – Identification of Small Local Supplier Participation, which shall be treated as certification that those SLSs listed will be used on this project;
OR
 - Affidavit C – Listing of Good Faith Efforts

3. Upon request, the Bidder shall provide:

- Affidavit D – Portion of Work to be Performed by Small Local Suppliers, if the portion of the work to be executed by SLS is **equal to or greater than** TBD% of the Bidder's total contract price; or
- Affidavit E – Good Faith Efforts, if the goal of TBD% participation by SLS **is not** achieved.

With each payment request, including final payment, Contractor shall submit the SLS Documentation for Contract Payments Form for an applicable project, which shall be treated as a binding statement on Contractor.

All written statements, certifications or intentions made by the Bidder shall become part of the Contract Documents between the Bidder and PWC. Failure to comply with any of these statements, certifications, intentions, or with the SLS Program compliance provisions shall constitute a breach of the Agreement. Any such breach may result in termination of the Agreement in accordance with the termination provisions contained in the Agreement. It shall be solely at the option of PWC whether to terminate the Agreement for breach.

SUBCONTRACTOR PAYMENT REQUIREMENTS:

North Carolina General Statute (N.C.G.S.) §143-134.1 states that the percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the Fayetteville Public Works Commission to the prime contractor. Failure to comply with this provision shall be considered a breach of the contract, and the contract may be terminated in accordance with the termination provisions of the contract.

The Contractor shall provide an itemized statement of payments to each SLS subcontractor before final payment is processed.

Date: _____

(Name of Company)

(Signature)

Attest: _____
(Above Name Typed or Printed)

(Title)

**Affidavit A – Intent to Perform Contract with Own Workforce
Fayetteville Public Works Commission**

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the following project: _____.

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type of project, and normally performs and has the capability to perform and will perform **all elements of the work** on this project with its own current workforce and will complete all elements of this project **without** the use of subcontractors, material suppliers, or providers of professional service providers.

The Bidder agrees to provide any additional information or documentation requested by PWC in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

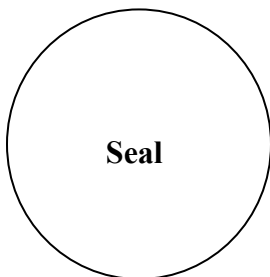
Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____



**Affidavit B – SLS Compliance/Portion of the Work to be Performed by SLSs
Fayetteville Public Works Commission**

If the portion of the work to be performed by SLSs is equal to or greater than TBD of the Bidders total Contract Price, then the Bidder must complete this affidavit. This Affidavit C shall be provided by the Bidder within **72 hours** upon request by PWC.

Affidavit of _____ I do certify that on
(Name of Company)

the _____ \$ _____
(Project Name) (Dollar Amount of Bid)

I will expend a minimum of _____% of the total dollar amount of the contract with certified SLSs. SLSs will be employed as subcontractors, vendors, or professional service providers for the subject project. Such work will be subcontracted to the following firms listed below.

Name, Address and Phone No.	Work Description	NAICS Code	Dollar Value	% of Contract

* SLS application must be submitted to PWC by bid opening.

The undersigned will enter into a formal agreement with the SLS(s) for the specific work listed in this schedule conditional upon execution of the Agreement with PWC. Failure to fulfill this commitment may constitute a breach of the Agreement.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: _____

Name of Authorized Officer: _____

Signature: _____

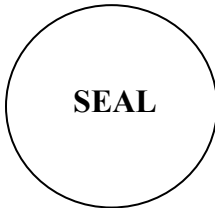
Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____



Affidavit C - Listing of the Good Faith Efforts
Fayetteville Public Works Commission

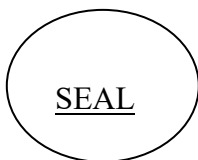
Affidavit of _____
(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:
(A minimum of 50 value points must be checked in order to have achieved a "good faith effort")

- ☐ (1) Contacting SLSs that reasonably could have been expected to submit a quote and that were known to the contractor or available on PWC's Directory of SLSs at least 10 days before the bid or proposal date and notifying the SLSs of the nature and scope of the work to be performed. **Value = Ten (10) points.**
- ☐ (2) Making the construction plans, specifications and requirements available for review by prospective SLSs, or providing these documents to them at least 10 days before the bid or proposals are due. **Value = Ten (10) points.**
- ☐ (3) Breaking down or combining elements of work into economically feasible units to facilitate SLS participation. **Value = Fifteen (15) points.**
- ☐ (4) Working with local trade organizations, community, or contractor organizations identified by PWC and included in the bid documents that provide assistance in recruitment of SLSs. **Value = Ten (10) points.**
- ☐ (5) Attending any pre-bid meetings scheduled by PWC. **Value = Ten (10) points.**
- ☐ (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for SLSs. **Value = Twenty (20) points.**
- ☐ (7) Negotiating in good faith with interested SLSs and not rejecting them as unqualified without sound reasons based on the capabilities of the SLS. Any rejection of a SLS based on lack of qualification should have the reasons documented in writing. **Value = Fifteen (15) points.**
- ☐ (8) Providing assistance to an otherwise qualified SLSs 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 SLSs in obtaining the same unit pricing with the bidder's suppliers in order to help SLSs in establishing credit. **Value = Twenty-five (25) points.**
- ☐ (9) Negotiating joint venture and partnership arrangements with SLSs in order to increase opportunities for SLS participation on a construction or repair project when possible. **Value = Twenty (20) points.**
- ☐ (10) Providing quick pay agreements and policies to enable SLSs to meet cash-flow demands. **Value = Twenty (20) points.**

In accordance SLS Program provisions, the undersigned will enter into a formal agreement with the firms listed in the Identification of Small Local Supplier Participation schedule conditional upon execution of a contract with PWC. Failure to abide by this provision will constitute a breach of the contract. The undersigned hereby certifies that he or she has read the terms of the SLS commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____
My commission expires _____

**Affidavit D – Portion of Work to be Performed by Small Local Suppliers
Fayetteville Public Works Commission**

I, _____
(Name of Bidder)

do hereby certify that on this project, Bidder will use the following SLSs as subcontractors, vendors, suppliers, or professional service providers:

Firm Name, Address, and Phone No.	Work Description	NAICS Code	SLS Certified (Y /N)
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The total value of Small Local Supplier contracting will be \$_____.

Affidavit E – Good Faith Efforts
Fayetteville Public Works Commission

If the goal of TBD participation by SLSs **is not** achieved for the subject project, the Bidder shall provide the following documentation to PWC of its good faith efforts to meet the SLS participation goal.

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation shall include the following evidence:

- A. Copies of solicitations for quotes to SLSs. Each solicitation shall contain a specific description of the work to be subcontracted, location where bidding documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a SLS is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to SLS, community or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for SLS.
- H. Letter detailing reasons for rejection of a SLS due to lack of qualification.
- I. Letter documenting proposed assistance offered to SLS in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____



SLS Documentation for Contract Payments
Fayetteville Public Works Commission

Contractor: _____
Address & Phone: _____
Project Name: _____
Pay Application #: _____ Period: _____

The following is a list of payments to be made SLSs on this project for the above-mentioned period.

Firm Name and Address	SLS Certified ("Yes" or "No")	Payment Amount	PWC Use Only

Date: _____

Approved/Certified By: _____, _____
(Name) (Title)

Signature _____

This form must be submitted with each pay request, including final payment

B. CERTIFICATION FORM

SMALL LOCAL SUPPLIER (SLS) CERTIFICATION FORM

FAYETTEVILLE PUBLIC WORKS COMMISSION



Small Local Supplier (SLS) Certification Form

(Name of Person or Entity)

(Owner's Name – First, Middle, Last) (Title)

(Street address) (City) (State) (Zip)

(Mailing address if different from the Street Address) (State) (Zip)

(Business Telephone)

Total Number of Employees

Number of Employees that reside within FMSA*
**Current FMSA consists of Cumberland, Hoke, and Harnett Counties*

(Email Address)

Type of Work Performed / NAICS Code

Average Gross Income for Past Three (3) Years

I hereby certify that the person or entity listed above meets the criteria for the PWC Small Local Supplier (SLS) Program in accordance with the SLS Program Guidelines as defined below. An SLS is person or entity that simultaneously and continuously satisfies all of the following requirements:

Size: The persons or entities shall meet the size requirement established by SBA's Office of Size Standards for the applicable primary North American Industry Classification Code, as set forth in 13 C.F.R. §121.201, and as updated. SBA Size tables can be found at <https://www.sba.gov/document/support--table-size-standards>

Business Location: Maintains a physical place of business (whether leased or owned) in the Fayetteville Metropolitan Statistical Area (FMSA). For persons or entities with physical locations both inside and outside of the FMSA, the physical location(s) inside the FMSA must account for at least than fifty percent (50%) of the applicant's total gross revenue from all locations; and At least twenty-five percent (25%) of the applicant's employees are residents of the FMSA, as determined by each employee's residential mailing address.

Integrity: Applicant agrees that any conduct of to attempt to evade or subvert the intent or requirements of the SLS Program will deem the person or entity ineligible for the SLS program.

Cooperation: Applicant seeking SLS Certification shall cooperate fully with PWC's requests for information and documentation relevant to the certification process. Failure or refusal to provide requested information and documentation may result in denial or removal of SLS Certification.

Other: Suppliers that are found ineligible for participation in the SLS Program, or have otherwise been prohibited from participation, may apply for certification after the disqualifying condition(s) cease to exist. PWC will evaluate the eligibility of a supplier seeking SLS Certification based on present circumstances.

SLS shall comply with all terms and conditions of any contract awarded. The contract consists of, but is not necessarily limited to the proposal or "bid" submitted, the plans for the project, the specifications for the project and any supplemental agreements entered into.

Certified SLS contact information will be published on the Directory of SLS firms for solicitation for bid opportunities for Prime Contractors and PWC Personnel.

(Signature Owner/Officer)

(Printed Name)

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Date

(Title)

C. PRIMARY BUSINESS LOCATION EXAMPLES

Example 1: Construction Company identified by NAICS 236220 (Commercial and Institutional Building Construction), has offices in Wilmington, Raleigh, and Fayetteville, North Carolina. Construction Company realized \$32,000,000 in total gross revenue for the fiscal year preceding its application certification as a SLS. Construction Company's income from its locations was as follows: \$1,800,000 from its Wilmington office; \$12,200,000 from its Raleigh office, and \$18,000,000 from its Fayetteville office. Because Construction Company recognized greater than 50% of its total gross revenue from its Fayetteville office ($\$18\text{MM}/\$32\text{MM} = 56\%$), Construction Company would meet the *Business Location* requirement for the SLS Program.

Example 2: PowerLine Inc., a company identified by NAICS 237130 (Power and Communication Line and Related Structures Construction), has offices in Fayetteville, Spring Lake, and Charlotte, North Carolina. PowerLine Inc. realized \$19,500,000 in total gross revenue for the fiscal year preceding its application for certification as a SLS. PowerLine Inc.'s income from its locations was as follows: \$5,500,000 from its Fayetteville office; \$5,000,000 from its Spring Lake office, and \$9,000,000 from its Charlotte office. Because PowerLine Inc. recognized greater than 50% of its total gross revenue from its locations within the FMAS ($\$10.5\text{MM}/\$19.5\text{MM} = 53.8\%$), PowerLine Inc. would meet the *Business Location* requirement for the SLS Program.

Example 3: Best Grading Co., a company identified by NAICS 237310 (Highway, Street, and Bridge Construction), has offices in Raeford, Fayetteville, and Lillington, North Carolina, as well as an office in Charleston, South Carolina. Best Grading Co. realized \$26,000,000 in total gross revenue for the fiscal year preceding its application for certification as a SLS. Best Grading Co.'s income from its locations was as follows: \$1,500,000 from its Raeford office; \$500,000 from its Fayetteville office; \$3,000,000 from its Lillington office; and \$21,000,000 from its Charleston, South Carolina office. Because Best Grading Co. recognized greater than 50% of its total gross revenue from its locations *outside of* the FMAS ($\$21\text{MM}/\$26\text{MM} = 80.7\%$), Best Grading Co. would *not* meet the Business Location requirement for the SLS Program and would *not* be certified as a SLS.