

A Resolution

NO. _____

ADOPTING AN UPDATED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR PARTICIPATION IN U.S. DEPARTMENT OF TRANSPORTATION ASSISTED AVIATION PROJECTS IN ACCORDANCE WITH THE CODE OF FEDERAL REGULATIONS, CHAPTER 49, PART 26

WHEREAS, the City receives federal grants and other financial assistance from the U.S. Department of Transportation ("DOT"), Federal Aviation Administration ("FAA"), for various projects at City-owned airports; and

WHEREAS, the DOT's disadvantaged business enterprise ("DBE") program provides a vehicle for increasing participation by DBEs in state and local procurement activities; and

WHEREAS, in accordance with the Code of Federal Regulations, Chapter 49, Part 26 (49 CFR 26), as a condition of receiving this financial assistance, the City is required to adopt a program that establishes goals for the participation of DBEs in DOT-assisted projects; and

WHEREAS, it is the policy of the City to ensure that DBEs, as defined in 49 CFR 26, have an equal opportunity to receive and participate in DOT-assisted contracts by:

- Ensuring nondiscrimination in the award and administration of DOT-assisted contracts;
- Creating a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensuring that only firms that meet the 49 CFR 26 eligibility standards are permitted to participate as DBEs;
- Helping remove barriers to the participation of DBEs in DOT-assisted contracts; and
- Assisting in the development of firms that can compete successfully in the marketplace outside the DBE program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

1. THAT the attached Disadvantaged Business Enterprise Program for participation by DBEs in DOT-assisted projects by the City is hereby adopted;
2. THAT the Diversity and Inclusion Department is hereby authorized to submit a copy of this Resolution and the attached Program for approval by the DOT and FAA;
3. THAT this Resolution shall take effect immediately upon its adoption.

Adopted this _____ day of _____ 2022.

ATTEST:

By: _____
Jannette S. Goodall, City Secretary



CITY OF FORT WORTH

FFY 2022 – 2024

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM GOAL



FORT WORTH ALLIANCE AIRPORT

CONTACT:

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Disadvantaged Business Enterprise Program

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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

City of Fort Worth (City), owner of Fort Worth Alliance Airport, Fort Worth Meacham International Airport and Fort Worth Spinks Airport has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 (hereafter referred to as "Part 26"). The City has received federal financial assistance from Department of Transportation, and as a condition of receiving this assistance, the City has signed assurances that it will comply with Part 26 and other federal requirements.

Policy Statement

It is the policy of the City of Fort Worth to ensure that DBE's as defined in Part 26, have an equal opportunity to receive and participate in DOT funded contracts. It is also the City of Fort Worth's policy to engage in the following actions on a continuing basis:

1. Ensure nondiscrimination in the award and administration of DOT- assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. Promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
7. Assist the development of firms that can compete successfully in the market place outside the DBE Program; and
8. Make appropriate use of the flexibility afforded to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

The Assistant Diversity and Inclusion Director, Business Equity Division, Diversity and Inclusion Department, has been delegated as the DBE Liaison Officer. In that capacity, the Assistant Diversity and Inclusion Director is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the Department of Transportation.

In September 2017, the City's original Policy Statement was approved by the City Manager, and the DBE Program Resolution No. 4846-09-2017 was adopted by the Mayor and City Council. This updated statement has been approved by the Mayor and City Council on __[date] under Resolution No. _____ and additionally, has been dispersed through all of the components of the City. The Statement has been distributed to the DBE and non-DBE communities that perform work for the City on federally-funded contracts. The distribution was accomplished by:

1. Public Notice posted on the City's Calendar and bulletin board
2. FAA DBE Public Informational Forum meeting held July 13, 2021
3. City 's quarterly Informational Vendor Forums
4. Posting of DBE Program Goal and opportunities distributed through the B2GNow System to more than 10,000 DBE, M/WBE and SBE businesses
5. Interviews with small businesses at Business Networking events and trade fairs held throughout the years.
6. Policy Statement and DBE Program Goals and Methodology posted on the Business Equity Division website at: <https://www.fortworthtexas.gov/departments/diversity-inclusion/business-equity>

David Cooke, City Manager
City of Fort Worth

Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are elaborated in the policy statement on the first page of this program.

Section 26.3 Applicability

The City is the recipient of federal airport funds authorized by 49 U.S.C. 47101, *et seq.* and therefore, is subject to the requirements under Part 26.

Section 26.5 Definitions

The City will use terms in this program that have their meanings defined in Part 26, §26.5.

Section 26.7 Non-discrimination Requirements

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Reporting to DOT

The City will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation will be reported to DOT/FAA as follows:

The City will transmit to DOT/FAA annually, by or before December 1 each year, the information required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Appendix B to Part 26. The City will similarly report the required information about participating DBE firms. All reporting will be done through the DBE FAA Civil Rights official reporting system, or another format acceptable to Federal Aviation Administration as instructed thereby.

Bidders List

The City, through the Department of Diversity and Inclusion, Business Equity Division will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on City, DOT-assisted contracts, for use in helping to set overall goals. The bidders list will include the name, address, DBE and non-DBE status (age of firm, and annual gross receipts of firms may be obtained from the DOT or the North Central Texas Regional Certification Agency (NCTRCA) and members of the Unified Certification Program ([UCP](#)).

This information will be collected in the following way(s): DBE Listings will be obtained from the NCTRCA or TXDOT or UCP DBE certification databases. The City will periodically run campaigns through the Business Equity Management System advertising upcoming DOT/FAA projects and will request the recipients to specify within a range its gross receipts information (e.g., less than \$500,000; \$500,000 – \$1 million; \$1-2 million, \$2-5 million, etc.) rather than requesting an exact figure from the firm. The bidders list will only include names of bidders/offerors who attempt to participate on the City projects. Compliant to Part 26, information will be collected for all primes and all subcontractors who submit bids to those primes, whether or not they were successful in obtaining a subcontract or the prime contract.

Records Retention and Reporting:

City will maintain records documenting a firm's compliance with the requirements of this part. At a minimum, City will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records will be retained in accordance with all applicable record retention requirements of City's financial assistance agreement. Other certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

The City, as a member of the Texas UCP established pursuant to §26.81, will report to the Department of Transportation's Office of Civil Rights each year the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

- 1) Women;
- 2) Socially and economically disadvantaged individuals (other than women); and
- 3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

Section 26.13 Federal Financial Assistance Agreement

City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance (26:13a): - Each financial assistance agreement City signs with a DOT operating administration (or a primary recipient) will include the following assurance:

The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Contract Assurance (26.13b): City will ensure that the following clause is included in each DOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

City is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. City is not eligible to receive DOT financial assistance unless DOT has approved this DBE program and the City is in compliance with it and Part 26. City will continue to carry out this program until all funds from DOT financial assistance have been expended. City does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for DOT approval.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this DBE Program.

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for City:

Gwen Wilson CCA MCA

Assistant Diversity and Inclusion Director | Business Equity Division
Department of Diversity and Inclusion
City of Fort Worth

Hazel Harvey Peace Center
818 Missouri Avenue, Suite 230
Fort Worth, TX 76104
(817) 392-2676 (office)
(817) 992-8072 (work cell)
gwen.wilson@fortworthtexas.gov
www.fortworthtexas.gov/diversity-inclusion/business-equity/

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Director, Assistant City Manager and City Manager concerning DBE

program matters. An organizational chart displaying the DBELO's position in the organization is included in **Attachment 2** of this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has a staff of six (6) direct employees, and coordinates with the Aviation Department, the City Attorney's Office, the Consultants and Operators for the City, and General Contractor(s) to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Works with all departments to set overall annual goals.
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
4. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
5. Analyzes City's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Determine contractor compliance with good faith efforts.
8. Provides DBEs with information and assistance in preparing bids
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to advise them of opportunities.

Section 26.27 DBE Financial Institutions

It is the policy of the City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

The City works closely with its Chamber partners, the Fort Worth Hispanic Chamber of Commerce and the Fort Worth Metropolitan Black Chamber of Commerce and other advocacy groups to help identify and engage these institutions. The City has a directory of Minority-owned Depository Institutions and their branches and reviews this directory triennially.

Section 26.29 Prompt Payment Mechanisms

The City requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the City established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the City.

The City ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, the City has selected the following method to comply with this requirement:

- (1) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

To implement this measure, the City includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime construction contract:

49 CFR § 26.29- Prompt Payment Mechanisms

The City requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) [calendar] days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

Section 26.31 Directory

The City is a non-certifying member of the Texas Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31. The City has access to the UCPs, i.e., B2GNow System, NCTRCA (www.nctrca.org) and TxDOT (www.TxDOT.txdotcms.com) directories or the City upon request will provide the DBE listings. A link to the directory may be found on the Business Equity Division website at: <https://www.fortworthtexas.gov/departments/diversity-inclusion/business-equity> .

Section 26.33 Over-concentration

The City has not identified that over-concentration exists in the types of work that DBEs perform.

Section 26.35 Business Development Programs

The City has a DBE Business Development Program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE Program. The rationale for the BDP is to help certified small businesses, DBEs, MBEs and WBEs build capacity so that they can compete on larger in scale projects and increase their ability to gain access to capital and bonding. These businesses are required to obtain certification from a third-party agency that is acceptable by the City. All Business Equity Firms (M/WBEs) and DBEs are qualified to participate in the program. The City hosts business development workshops and events quarterly. D/M/WBEs are notified through the Business Equity Management System, Community Partners, City News and the City's website.

Section 26.37 Monitoring Responsibilities

The City implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in City's DBE program.

The City's DBELO actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments through its automated B2GNow System.

Monitoring Payments to DBEs and Non-DBEs

The City undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

- Use of an automated system that requires real time entry of payments to, and receipts by, prime contractors and subcontractors and regularly monitoring and performing audits within the system
- Audit feature built into the system that allows the staff to audit records on a daily or monthly basis
- The Business Equity Management System automated feature notifies the subcontractor when the Prime has received payment from the City
- Subcontractor will confirm, in the Business Equity Management System, payment amount and dates when it received payment from the Prime
- Closeout of a project, the City, Prime and Subcontractor will confirm the accuracy of all payments and sign off

The City requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the City's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of City or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- The City proactively reviews contract payments to subcontractors including DBEs quarterly. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to the City by the prime contractor.

Prompt Payment Dispute Resolution

The City will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.

- The City's Business Equity Management System tracks its payments to the Prime and the payments that the Prime made to the subcontractors
- Prime enters in the payment it made to its subcontractor
- Subcontractor has 30 days to confirm or deny the accuracy of the payment and the date recorded by the Prime
- If there is a dispute and the subcontractor submit a denial, a system generated message goes back to the Prime

- Prime then confirms or denies (dispute) and the system will allow two communication attempts for both parties to resolve their dispute
- Dispute not resolved by both parties a notification is sent to the DBELO
- DBELO staff will reach out to the Prime and Sub and request supporting documentation (e.g. cancelled check, etc.) to help mediate the dispute
- DBELO may engage the resident project representative/project manager and include individuals authorized to bind each interested party and any City representatives with authority to take enforcement action.

The City has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage as follows:

Alternative dispute resolution (ADR) – Refer to the City Council-approved Business Equity Ordinance #25165-11-2021, §20-371 (i-2&3) and §20-373 Violations and Sanctions

(c)Payments Withheld. Failure to comply with the provisions of the Texas Prompt Payment Act (Tex. Gov't. Code, Chap. 2251) or any successor statute shall authorize the City to withhold payment from the Contractor until compliance is attained. Noncompliance may impact bidder evaluation scoring on future City bid opportunities.

Refer to the Business Equity Ordinance or click on the link below:

<https://www.fortworthtexas.gov/departments/diversity-inclusion/business-equity>

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

- If affected subcontractor is not comfortable contracting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the City to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA Civil Rights contact.

Herlinda J. Bradley

DBE/ACDBE Program Compliance Specialist
Federal Aviation Administration
Office of Civil Rights – External Operations (ACR-4)
E-mail: herlinda.j.bradley@faa.gov

- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

The City will provide appropriate means to enforce the requirements of §26.29. These means include:

- Failure to comply with the provisions of the Texas Prompt Payment Act (Tex. Gov't. Code, Chap. 2251) or any successor statute shall authorize the City to withhold payment from the Contractor until compliance is attained. Noncompliance may impact bidder evaluation scoring on future City bid opportunities.

- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Refer to §20-373 [VIOLATIONS AND SANCTIONS](#) in the Business Equity Ordinance .

The City will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The City reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by DBELO/compliance team/project managers/consultant/etc. Contracting records are reviewed by the DBELO/compliance team/project managers/consultant/etc. The City will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering small business participation

The City has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as **Attachment 10** to this DBE Program. The program elements will be actively implemented to foster small business participation.

SUBPART C – Goals, Good Faith Efforts and Counting

Section 26.43 Set-asides or Quotas

The City does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 5** to this program. This section of the program will be updated annually.

The City will establish an overall DBE goal covering a triennial federal fiscal year period if it anticipates awarding DOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any one or more of the reporting fiscal years within the triennial goal period. In accordance with §26.45(f), the City will submit its Overall Triennial DBE Goal to FAA Office of Civil Rights ACR-4 by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of FAA Office of Civil Rights ACR-4.

FAA:

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DBE_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the City does not anticipate awarding prime contracts the cumulative total value of which exceeds \$250,000 in DOT funds during any of the years within the triennial reporting period, an overall goal will not be developed. However, this DBE Program will remain in effect and the City will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. The City will use a Disparity Study method, the DBE Directory information and Census Bureau Data that complies with §26.45 as a method to determine the base figure. The City understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. The City will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

In establishing the overall goal, the City will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by the City to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before the City is required to submit the goal methodology to the operating administration for review pursuant to §26.45(f). The goal submission will document the consultation process in which the City engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, the City will publish a notice announcing the proposed overall goal before submission to the Office of Civil Rights – External Operations (ACR-4) on August 1st. The notice will be posted on the City’s official internet web site and may be posted in other sources (e.g., City Calendar, City News, Business Equity Management System Campaigns, Partner Organizations media to D/MWBEs). If the proposed goal changes following review by Office of Civil Rights – External Operations (ACR-4), the revised goal will be posted on the official internet web site.

The public will also be informed that the proposed overall goal and its rationale are available for inspection during normal business hours at the principal office of the City’s DBELO ‘s office. This notice will provide that the City and Office of Civil Rights – External Operations (ACR-4) will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed.

The Overall Triennial DBE Goal submission to the FAA Office of Civil Rights – External Operations (ACR-4) will include a summary of information and comments received, if any, during this public participation process and the City responses.

The City will begin using the overall goal on October 1 of the relevant period, unless other instructions from Office of Civil Rights – External Operations (ACR-4) have been received.

Project Goals

If permitted or required by the FAA Office of Civil Rights – External Operations (ACR-4) Administrator, an overall goal may be expressed as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a DOT-assisted contract for the project.

Prior Operating Administration Concurrence

The City understands that prior Office of Civil Rights – External Operations (ACR-4) concurrence with the overall goal is not required. However, if the Office of Civil Rights – External Operations (ACR-4) review suggests that the overall goal has not been correctly calculated or that the method employed by the City for calculating goals is inadequate, Office of Civil Rights – External Operations (ACR-4) may, after consulting with the City, adjust the overall goal or require that the goal be adjusted by the City. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in **Attachment 5** to this program.

Section 26.47 Failure to meet overall goals

The City cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the City fails to administer its DBE program in good faith.

The City understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

The City understands that if the awards and commitments shown on the Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal

applicable to that fiscal year, the following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- (3) The City will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (1) and (2) above to the Office of Civil Rights – External Operations (ACR-4) for approval.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

The City will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Aiding in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE

participation has historically been low;

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation

The breakout of estimated race-neutral and race-conscious participation can be found in **Attachment 5** to this program.

The City will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. A contract goal need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in [49CFR Appendix A to Part 26](#).

The DBELO or Compliance Specialist is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

The City will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in [Appendix A of Part 26](#)). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:

Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration

Within 5 days of being informed by the City that it is not responsive because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: DVIN Business Equity Division, 818 Missouri Avenue, Fort Worth Texas 76104, (817) 392-2674, DVIN_BEOffice@fortworthtexas.gov. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do so. The bidder/offeror will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the City. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if the City agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) The City determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides The City written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that the City has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to the City a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the City, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the City and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (e.g., safety), a response period shorter than five days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid/solicitation response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the City as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If the City requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor. The City shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the contracting office/representative of the City may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

In the case of post-award substitutions or additions, if a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

The City will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The City makes all certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Name: North Central Texas Regional Certification Agency

Title: Certification Specialist
Address, 624 Six Flags Drive, Arlington, TX 76011
Telephone Number: (817) 640-0606
Fax Number: (817) 640-6315
E-mail Address: Mail@nctrca.org

Or

Name: Texas Department of Transportation (TxDOT) Online Support
Telephone Number: 1-866-480-2518, Option 1
<https://txdot.txdotcms.com/>

The Uniform Certification Application form and documentation requirements are found in [Appendix F to Part 26](#) to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The City is the member of a Unified Certification Program (UCP) administered by the NCTRCA. The UCP will meet all of the requirements.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to the City

The City understands that if it fails to comply with any requirement of this part, the City may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122. requirements.

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

Information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law will be safeguarded from disclosure to third parties. Under the Texas Public Information Act, Section 552 of the Texas Government Code (the “Act”), the City will notify any third parties, including all disadvantage business enterprises of any request made to the City for any third party proprietary or confidential business information which will allow the DBE’s the ability to make arguments to the Texas Attorney General’s Office regarding the proprietary or confidential nature of their documents. The City will not release any documents that were requested under the Act that involve proprietary or confidential records of a third party, including any DBE, until an official ruling has been provided by the Texas Attorney General regarding the withholding or release of the records.

Notwithstanding any provision of Federal or state law, information that may reasonably be construed as confidential business information will not be released to any third party without the written consent of the firm that submitted the information, including applications for DBE certification and supporting information. However, this information will be transmitted to DOT in

any certification appeal proceeding under §26.89 or to any other state to which the individual's firm has applied for certification under §26.85.

All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The City, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The City understands that it is in noncompliance with Part 26 if it violates this prohibition.



City of Fort Worth
FFY 2022 - 2024
Disadvantaged Business Enterprise (DBE) Program Goal

Summary

Federal Aviation Administration
DBE Triennial Goal and Program Methodology

Overall Goal (49 CFR Part 26. 45)

Amount of Goal

The City of Fort Worth (the City) overall proposed goal for Federal Fiscal Years (FFY) 2022 – 2024 is **32.89%** of the Federal financial assistance we will expend in DOT-assisted contracts.

Methodology

The City is using an approved FAA DBE Triennial Goal setting methodology based on data from a third-party consultant to examine the past and current status of MBEs, WBEs, and DBEs in the City's geographic and product markets for construction, construction related professional services and goods and services. The City's use of the City Council-approved Disparity Study, conducted in FFY2020, was the basis to determine the availability of DBEs to establish the goal for FFYs 2022 - 2024. Refer to Executive Summary in Appendix E.

This FFY 2022 - 2024 DBE established goal is based on the Consultant's research and sources used such as, data from Census Bureau's American Community Survey ("ACS"), DBE Directories, UCP directories and other sources to estimate the availability of DBEs in the City's market area. We project that the amount of DBE utilization we expect to achieve through race-neutral measures, and through race-conscious contract goals.

The proposed DBE Triennial Goal for FFYs 2022 - 2024 is 0.00% to be achieved through race-neutral measures, and 32.89% through race-conscious measures.

Sincerely,

Gwen Wilson, DBELO
City of Fort Worth
818 Missouri Ave.
Fort Worth, Texas 76104

ATTACHMENTS

- Attachment 1 Regulations: 49 CFR Part 26 or website link
- Attachment 2 Organizational Chart
- Attachment 3 Bidder's List Collection Form
- Attachment 4 DBE Directory or link to DBE Directory
- Attachment 5 Overall Goal Calculations
- Attachment 6 Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
- Attachment 7 DBE Monitoring and Enforcement Mechanisms
- Attachment 8 DBE Certification Application Form
- Attachment 9 State's UCP Agreement
- Attachment 10 Small Business Element Program

APPENDIX

- Appendix A – Minority Financial Institutions
- Appendix B – Business Equity Advisory Board Meeting Agenda, Posting & Members
- Appendix C – Public Outreach Virtual Event Announcements, Ads & Registrants
- Appendix C-1 – List of certified D/M/WBE Attendees
- Appendix D – Public Notice
- Appendix E – Executive Summary – 2020 Disparity Study
- Appendix F – Business Equity Ordinance #24534-11-2020

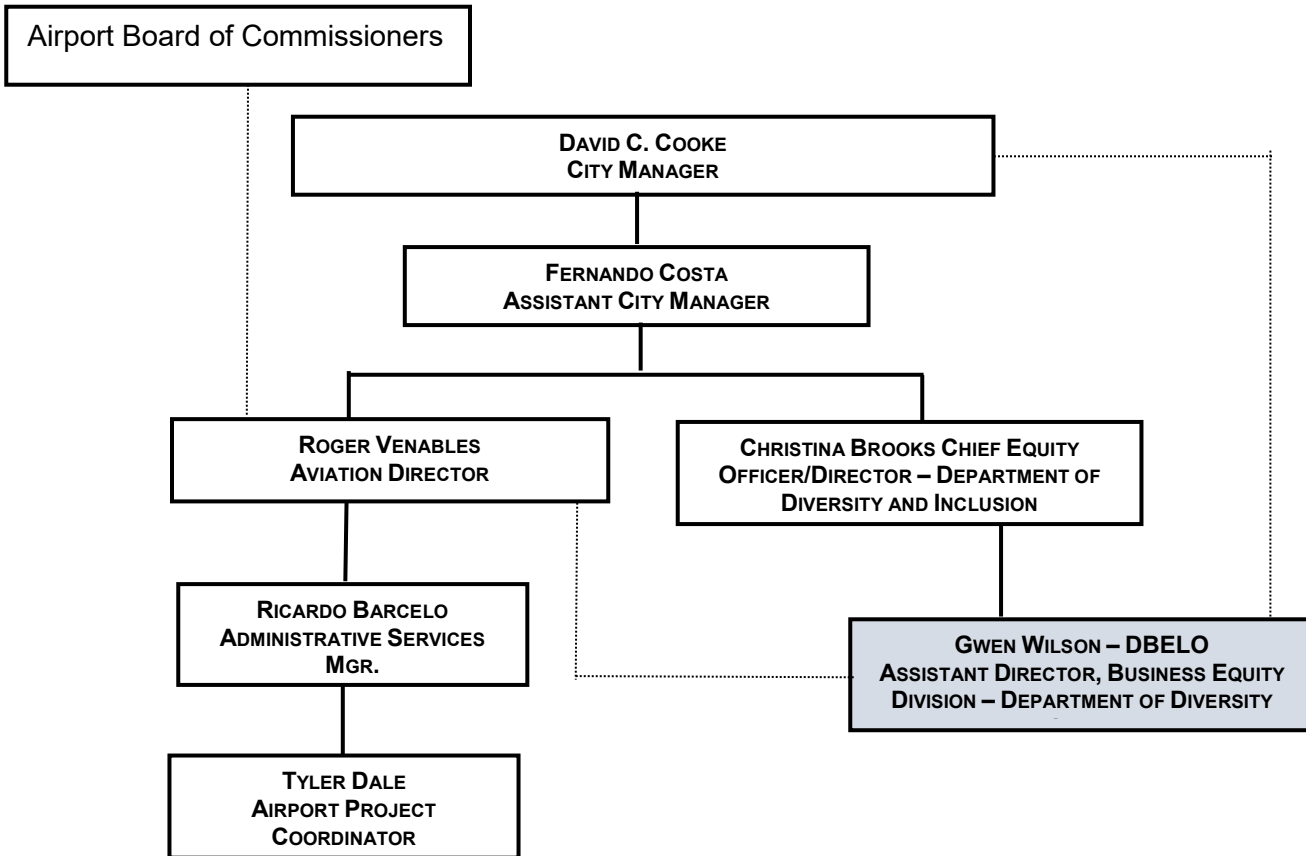
ATTACHMENT 1

Regulations: 49 CFR Part 26, or links to website

Part 26. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

- [Subpart A - General \(§§ 26.1 - 26.15\)](#)
- [Subpart B - Administrative Requirements for DBE Programs for Federally-Assisted Contracting \(§§ 26.21 - 26.39\)](#)
- [Subpart C - Goals, Good Faith Efforts, and Counting \(§§ 26.41 - 26.55\)](#)
- [Subpart D - Certification Standards \(§§ 26.61 - 26.73\)](#)
- [Subpart E - Certification Procedures \(§§ 26.81 - 26.91\)](#)
- [Subpart F - Compliance and Enforcement \(§§ 26.101 - 26.109\)](#)
- SUBPART
- [49CFR Appendix A to Part 26 - Guidance Concerning Good Faith Efforts](#)
- [49CFR Appendix B to Part 26 - Uniform Report of DBE Awards or Commitments and Payments Form](#)
- [49CFR Appendix C to Part 26 - DBE Business Development Program Guidelines](#)
- [49CFR Appendix D to Part 26 - Mentor-Protégé Program Guidelines](#)
- [49CFR Appendix E to Part 26 - Individual Determinations of Social and Economic Disadvantage](#)

ATTACHMENT 2
ORGANIZATIONAL CHART



ATTACHMENT 3 Bidder's List Collection Form

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

ATTACHMENT 4

DBE Directories and Links

State of Texas

North Central Texas Regional Certification Agency (NCTRCA) www.nctrca.mwdbe.com

Texas Department of Transportation
<https://txdot.txdotcms.com/>

Unified Certification Program
<https://www.txdot.gov/inside-txdot/division/civil-rights/tucp.html>

ATTACHMENT 5

Overall DBE Triennial Goal Methodology

Name of Recipient: The City of Fort Worth(The City)

Goal Period: FFY-2022-2023-2024 – October 1, 2022 through September 30, 2025)

DOT-assisted contract amount:	FFY-2022	\$ 857,009.00
	FFY-2023	\$ <u>11,389,301.00</u>
	FFY-2024	\$ <u>13,944,747.00</u>
	Total	\$ <u>26,191,059.00</u>

Overall Triennial Goal: 32.89%, to be accomplished through 32.89% RC and 0.00% RN

Total dollar amount to be expended on DBEs: \$8,320,772.00

Number and Type of Contracts that the airport anticipates awarding:

Contract #1

Fiscal Year #1

Joint Reseal & Pavement Repair (Design & Construction)	\$857,009
Design	\$51,421
Mobilization	\$70,275
Traffic Control	\$35,137
Airfield Paving	\$597,335
Construction Management	\$102,841

Contracts #2

Fiscal Year #2

Taxiway P (TWYF to TWY G) (Design & Construction)	\$11,389,301
Design	\$683,358
Mobilization	\$466,961
Traffic Control	\$457,622
Airfield Paving	\$3,271,531
Demolition	\$101,798
Earthwork	\$2,554,279
Pavement Markings	\$29,886
Fencing	\$43,894
Erosion / Sed control	\$36,423
Drainage	\$266,168
Landscaping	\$667,755
Perimeter Road Paving	\$716,319
Airfield Electrical	\$726,592
Construction Management	\$1,366,716

Contract #3

Fiscal Year #3	
Taxiway P (Taxiway G- H) Design & Construction	\$13,944,747.00
Design	\$836,685
Mobilization	\$571,735
Traffic Control	\$560,300
Airfield Paving	\$4,005,573
Demolition	\$124,638
Earthwork	\$3,127,388
Pavement Markings	\$36,591
Fencing	\$53,743
Erosion / Sed control	\$44,595
Drainage	\$325,889
Landscaping	\$817,581
Perimeter Road Paving	\$877,041
Airfield Electrical	\$889,619
Construction Management	\$1,673,370

Market Area: As defined by the City's 2020 Disparity Study, the State of Texas contained 97.3 percent of the contract dollars in this market. Three counties – Tarrant, Dallas, and Johnson capture 92.6 percent of the Texas dollars (and 90.1 percent of the Final Contract Data File). <https://www.fortworthtexas.gov/departments/diversity-inclusion/business-equity>

Table 1-2: Distribution of Contracts in the City's Product Market

State/County	Pct Total Contract Dollars	Cumulative Pct Total Contract Dollars
Tarrant	68.9%	68.9%
Dallas	20.0%	89.0%
Johnson	3.6%	92.6%
TOTAL		100.0%^a

a. The rest of the counties in Texas captured 7.4 percent of the City's spending in the state.

Source: CHA analysis of the City data.

Step 1. Actual relative availability of DBEs

We first determined the percentage of DBEs both prime and subcontractors that are ready, willing, and able to compete for contract work. The City used the 2020 Disparity Study Method Refer to Appendix E – Executive Summary.

The Study was conducted by a Consultant, Colette Holt and Associates (CHA) who used the following sources, data, and literature:

- Data from the Census Bureau’s *Survey of Business Owners*
<https://www.census.gov/programs-surveys/decennial-census/decade/2020/2020-census-main.html>
- Data from the Census Bureau’s *American Community Survey* (“ACS”).
- Study’s analysis of the City’s Data (Geographic Market)
- Hoovers
- CHA master directory
- North Central Texas Regional Certification Agency www.nctrca.mwdbe.com
- Texas Department of Transportation
<https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp?TN=txdot&XID=2340>

The base figure for the relative availability was calculated as follows:

Contract #1	Trade Description	NAICS Description	NAICS	Trade (\$)	DBE (%)	DBE (\$)
Joint Reseal & Pavement Repair (Design & Construction)	Design	Engineering design services	541330	\$51,421	25.00%	\$12,855
	Construction	NAICS Description				
	Mobilization	Other Scientific and Technical Consulting Services	541611	\$70,275	8.60%	\$6,044
	Traffic Control	Flagging (i.e. traffic control) services	561990	\$35,137	3.60%	\$1,265
	Airfield Paving	Airport runway construction or Asphalt paving (i.e. highway, road, street, public sidewalk)	237310	\$597,335	40.40%	\$241,323
	Construction Management	Construction Management, highway, road, street and bridge	237310	\$102,841	40.40%	\$41,548
Year 1 Total				\$857,009	35.36%	\$303,035

The base goal projection after weighting is as follows:

$$\begin{array}{l}
 \text{Total Weighted DBE Availability: } \$303,035 \\
 \text{Divided by} \\
 \text{Total for All Trades: } \$857,009
 \end{array}
 = 35.36\%$$

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the triennial overall goal.

Base of DBE Goal: 35.36%

Contract #2	Trade Description	NAICS Description	NAICS	Trade (\$)	DBE (%)	DBE (\$)
Taxiway P (TWYF to TWY G) (Design & Construction)	Design	Engineering design services	541330	\$683,358	25.00%	\$170,840
	Construction	NAICS Description				
	Mobilization	Other Scientific and Technical Consulting Services	541611	\$466,961	8.60%	\$40,159
	Traffic Control	Flagging (i.e. traffic control) services	561990	\$457,622	3.60%	\$16,474
	Airfield Paving	Airport runway construction or Asphalt paving (i.e. highway, road, street, public sidewalk)	237310	\$3,271,531	40.40%	\$1,321,699
	Demolition	Demolition Contractor	238910	\$101,798	38.30%	\$38,989
	Earthwork	Demolition Contractor	238910	\$2,554,279	38.30%	\$978,289
	Pavement Markings	Airport runway line painting (e.g. striping)	237310	\$29,886	40.40%	\$12,074
	Fencing	Fencing Contractors (except: electronic containment fencing for	238990	\$43,894	11.40%	\$5,004
	Erosion / Sed control	Erosion Control Services	561730	\$36,423	5.50%	\$2,003
	Drainage	Land Drainage Contractors	237990	\$266,168	10.00%	\$26,617
	Landscaping	Landscaping Services	561730	\$667,755	5.50%	\$36,727
	Perimeter Road Paving	Asphalt paving (i.e., highway, road, street, public sidewalk)	237310	\$716,319	40.40%	\$289,393
	Airfield Electrical	Airport runway lighting contractors	238210	\$726,592	15.70%	\$114,075
	Construction Management	Construction Management, highway, road, street and bridge	237310	\$1,366,716	40.40%	\$552,153
Year 2 Total				\$11,389,302	31.65%	\$3,604,494

The base goal projection after weighting is as follows:

$$\begin{aligned}
 &\text{Total Weighted DBE Availability: } \$3,604,494 \\
 &\quad \text{Divided by} \qquad \qquad \qquad = 31.65\% \\
 &\text{Total for All Trades: } \$11,389,302
 \end{aligned}$$

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the triennial overall goal.

Base of DBE Goal: 31.65%

Contract #3	Trade Description					
Taxiway P (Taxiway G- H) Design & Construction	Design	Engineering design services	541330	\$836,685	25.00%	\$209,171
	Construction	NAICS Description	NAICS	Trade (\$)		
	Mobilization	Other Scientific and Technical Consulting Services	541611	\$571,735	8.60%	\$49,169
	Traffic Control	Flagging (i.e. traffic control) services	561990	\$560,300	3.60%	\$20,171
	Airfield Paving	Airport runway construction or Asphalt paving (i.e. highway, road, street, public sidewalk)	237310	\$4,005,573	40.40%	\$1,618,251
	Demolition	Demolition Contractor	238910	\$124,638	38.30%	\$47,736
	Earthwork	Demolition Contractor	238910	\$3,127,388	38.30%	\$1,197,790
	Pavement Markings	Airport runway line painting (e.g. striping)	237310	\$36,591	40.40%	\$14,783
	Fencing	Fencing Contractors (except: electronic containment fencing for pets)	238990	\$53,743	11.40%	\$6,127
	Erosion / Sed control	Erosion Control Services	561730	\$44,595	5.50%	\$2,453
	Drainage	Land Drainage Contractors	237990	\$325,889	10.00%	\$32,589
	Landscaping	Landscaping Services	561730	\$817,581	5.50%	\$44,967
	Perimeter Road Paving	Asphalt paving (i.e., highway, road, street, public sidewalk)	237310	\$877,041	40.40%	\$354,325
	Airfield Electrical	Airport runway lighting contractors	238210	\$889,619	15.70%	\$139,670
	Construction Management	Construction Management, highway, road, street and bridge	237310	\$1,673,370	40.40%	\$676,041
Year 3 Total				\$13,944,748	31.65%	\$4,413,243

The base goal projection after weighting is as follows:

$$\begin{aligned}
 &\text{Total Weighted DBE Availability: } \$4,413,243 \\
 &\quad \text{Divided by} \qquad \qquad \qquad = 31.65\% \\
 &\text{Total for All Trades: } \$13,944,748
 \end{aligned}$$

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the triennial overall goal.

Base of DBE Goal: 31.65%

Three Year Base Figures:

Years	Total Projects (\$)	DBE (\$)	DBE (%)
Year 1	\$857,009	\$303,035	35.36%
Year 2	\$11,389,302	\$3,604,494	31.65%
Year 3	\$13,944,748	\$4,413,243	31.65%
Totals	\$26,191,059	\$8,320,772	31.77%

The proposed step one base percentage figures are:

$$\begin{aligned}
 &\text{Year 1} - 35.36\% \\
 &\text{Year 2} - 31.65\% \\
 &\text{Year 3} - \underline{31.65\%} \\
 &\qquad\qquad 98.66\% \text{ divide by } 3
 \end{aligned}$$

Average the proposed DBE goals for the next three years and divide by three: **32.89%**

Step 1 Base Goal Percentage is 32.89%

Step 2: Adjustments to Step 1 base figure

Past History Participation

In conducting the step two adjustment we considered all of the evidence – Past Participation. This step is intended to adjust the Step One Base Figure percentage so that it reflects as accurately as possible the DBE participation the recipient would expect in a race/gender neutral process.

The data used to determine the adjustment to the base figure was the median of historical DBE accomplishments, as follows:

FFY	Total Grant \$ Amount	DBE Goals			Accomplishments			Type of work
		RC	RN	Total	RC	RN	Total	
FFY 16	\$10,680,318	17.50%	4.5%	13.00%	13.00%	9.58%	22.58%	Extend Runway - 16L/34R Grant # 3-48-0296-057-2016
FFY 17	\$12,392,264	25.42%	3.28%	22.14%	0.00%	0.00%	0.00%	Extend Runway - 16L/34R, Rehabilitate Runway - 16L/34R, Rehabilitate Runway - 16R/34L, Rehabilitate Taxiway Lighting
FFY 18	1,386,164	15.11%	3.28%	18.39%	0.00%	0.00%	0.00%	Rehabilitate Runway - 16L/34R, Conduct Noise Compatibility Plan Study
FFY 19	4,113,370	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	Noise Mitigation Measures for Residences within 65-69 DNL, Extend Taxiway, Rehabilitate Runway Lighting - 16L/34R, Rehabilitate Taxiway Lighting [Taxiway A]
FFY 20	5,611,500	19.82%	3.28%	23.10%	17.92%	0.00%	17.92%	Noise Mitigation Measures for Residences within 65-69 DNL, Extend Taxiway

Arranging this historical data from low to high, (0.0%, 0.0%, 0.0%, 17.92%, 22.58%) the median is 0.0%.

Not enough historical data on DBE participation is available to reference to make an adjustment to the Step 1 base figure; therefore, Fort Worth Alliance Airport is adopting the Step 1 base figure as the overall average of the goal percentage for this triennial goal period. The City of Fort Worth Alliance Airport estimates that in meeting the established overall goal of 32.89%, it will obtain 0.00% from RN participation and 32.89% through RC measures.

Breakout of Estimated “Race and Gender Neutral” (RN) and “Race and Gender Conscious” (RC) Participation.

The City will meet the maximum feasible portion of the overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Aiding in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contracting procedures and specific contract opportunities;
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Assist DBEs and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media; and
9. Fort Worth Alliance Airport estimates that in meeting the established overall goal of 32.89%, it will obtain 0.0% from RN participation and 32.89% through race conscious measures.
10. The City will adjust the estimated breakout of race neutral and race conscious DBE participation as needed to reflect actual DBE participation (see §26.51(f)) and track and report race neutral and race conscious participation separately.

The City estimates that in meeting the established overall goal of 32.89%, it will obtain 0 % from RN participation and 32.89% through RC measures.

This breakout is based on:

Past History Participation (refer to Step 2: Adjustments to Step 1 base figure, page 31)

In conducting the step two adjustment we considered all of the evidence – Past Participation. This step is intended to adjust the Step One Base Figure percentage so that it reflects as accurately as possible the DBE participation the recipient would expect in a race/gender neutral process.

The data used to determine the adjustment to the base figure was the median of historical DBE accomplishments (reference chart on page 31). Arranging this historical data from low to high, (0.0%, 0.0%, 0.0%, 17.92%, 22.58%) the median is 0.0%.

Not enough historical data on DBE participation is available to reference to make an adjustment to the Step 1 base figure; therefore, Fort Worth Alliance Airport is adopting the Step 1 base figure

as the overall average of the goal percentage for this triennial goal period. The City of Fort Worth Alliance Airport estimates that in meeting the established overall goal of 32.89%, it will obtain 0.00% from RN participation and 32.89% through RC measures.

- a) The City does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, the entire goal of 32.89% is to be obtained through race-conscious participation.

The City will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation [see §26.51(f)] and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal, and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PUBLIC PARTICIPATION

Consultation:

In establishing the overall goal, City of Fort Worth provided for consultation and publication. This process included consultation with disadvantaged business enterprises, minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Fort Worth Alliance Airport's efforts to establish a level playing field for the participation of DBEs.

The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows:

1. On June 25, 2021, the DBELO presented the DBE Program Methodology and Triennial Goals to the Business Equity Advisory Board, an 18-person board that consist of four Chambers of Commerce, six Advocacy partners that promote business diversity, three Certification Agencies, three Community Organizations, and five City Department representatives,
2. Public Outreach Virtual Event Announcement and Invitation sent to approximately 2,192 certified DBEs, and M/WBEs, and followed up with a copy of presentation distributed to all attendees.
3. On July 13, 2021, the DBELO and the Aviation staff representatives held a Public Virtual Outreach Conference. A [video](#) recording of the conference is available on the City's website.

If the proposed goal change, following a review by Herlinda J. Bradley, the revised goal will be posted on the City of Fort Worth's official website.

Notwithstanding paragraph (f)(4) of §26.45, the City of Fort Worth proposed goals will not be implemented until this requirement has been met.



You're Invited!
Public Outreach Virtual Event

\$26 Million in Federal Grants for Construction Projects at Fort Worth Alliance Airport and \$8 Million (31.8%) DBE Goal

City of Fort Worth Alliance Airport encourages Public Participation and Feedback on Proposed Goal

The City of Fort Worth invites the consultant and contractor community along with the general public to attend our upcoming outreach meeting to learn more about the proposed

DBE Goal Methodology for Federal Fiscal Years 2022-2024.

Virtual WebEx Conference

Date: July 13, 2021

Time: 9:30 AM

[REGISTER ON LINE](#)

<https://www.eventbrite.com/e/city-of-fort-worth-alliance-airport-construction-projects-for-dbes-tickets-161705915747>

We look forward to your involvement and comments in this open and important discussion.

WORK CATEGORIES / TRADES:

- **AIRFIELD ELECTRICAL**
- AIRFIELD PAVING
- CONSTRUCTION MANAGEMENT
- DEMOLITION
- DESIGN
- DRAINAGE
- EARTHWORK
- EROSION / SED CONTROL
- FENCING
- LANDSCAPING
- MOBILIZATION
- PAVEMENT MARKINGS
- PERIMETER ROAD PAVING
- TRAFFIC CONTROL

CONTACT US AT: DVIN_BEOffice@fortworthtexas.gov for assistance.

PUBLIC NOTICE



City of Fort Worth
Diversity and Inclusion Department
July 1, 2021

**NOTICE REGARDING THE CITY OF FORT WORTH'S
PROPOSED DBE GOAL FOR FISCAL YEAR 2022 THROUGH FISCAL YEAR 2024
FOR DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION ON ALLIANCE AIRPORT FEDERALLY-FUNDED CONTRACTS**

Please be advised that the Alliance Airport's proposed goal for Disadvantaged Business Enterprise participation on federally-funded contracts is 31.8% of \$26,191,772. This means that Alliance Airport proposes to spend \$8,320,772 with Disadvantaged Business Enterprises on upcoming federally-funded capital projects.

PLEASE BE ADVISED THAT THE ALLIANCE AIRPORTS PROPOSED GOAL AND RATIONAL FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION ON FEDERALLY-FUNDED CONTRACTS IS AVAILABLE FOR INSPECTION AT:

City of Fort Worth
Business Equity Division
Diversity and Inclusion Department
818 Missouri Avenue
Fort Worth, Texas 76104
817-392-2676

SEND COMMENTS ON THE PROPOSED GOAL TO:

Gwen Wilson, DBE Liaison
Assistant Diversity and Inclusion Director

DIVERSITY AND INCLUSION DEPARTMENT
The City of Fort Worth ★ 818 Missouri Avenue ★ Fort Worth, Texas 76104
817-392-2676 ★ Fax 817-392-7529

Herlinda J. Bradley
DBE/ACDBE Program Compliance Specialist
Federal Aviation Administration
Office of Civil Rights – External Operations (ACR-4)
E-mail: herlinda.j.bradley@faa.gov


I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the City of Fort Worth official website and said Notice was posted on the following date and time: **Thursday, July 01, 2021 at 3:30 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.


Interim City Secretary for the City of Fort Worth, Texas

ATTACHMENT 6

Demonstration of Good Faith Efforts - Forms 1 & 2

Form 1



**City of Fort Worth
Business Equity Division
Good Faith Effort Form**

ATTACHMENT 1C
Page 1 of 4

ATTACHMENT 1C
Page 3 of 4

8.) Did you prepare a quotation for the Business Equity firms to bid on goods/services specific to their skill set?

Yes (if yes, attach all copies of quotations.)
 No

9.) Was the contact information on any of the listings not valid?

Yes (if yes, attach the information that was not valid in order for the Business Equity Division to address the corrections needed.)
 No

10.) Submit documentation if Business Equity firms quotes were rejected. The documentation submitted should be in the firms forms of an affidavit, include a detailed explanation of why the Business Equity firms was rejected and any supporting documentation the Prime/Offoror wishes to be considered by the City. In the event of a bona fide dispute concerning quotes, the Prime/Offoror will provide for confidential in-camera access to an inspection of any relevant documentation by City personnel.

(Please use additional sheets, if necessary, and attach.)

Company Name	Telephone	Contact Person	Scope of Work	Reason for Rejection

ADDITIONAL INFORMATION:

Please provide additional information you feel will further explain your good and honest efforts to obtain Business Equity firm participation on this project.

The Prime/Offoror further agrees to provide, directly to the City upon request, complete and accurate information regarding actual work performed on this contract, the payment thereof and any proposed changes to the original arrangements submitted with this bid. The Prime/Offoror also agrees to allow an audit and/or examination of any books, records and files held by their company that will substantiate the actual work performed on this contract, by an authorized officer or employee of the City.

A Prime/Offoror who intentionally and/or knowingly misrepresents material facts shall be Debarred for a period of time of not less than three (3) years.

The undersigned certifies that the information provided and the Business Equity firms listed was/were contacted in good faith. It is understood that any Business Equity firms listed in Attachment 1C will be contacted and the reasons for not using them will be verified by the City's Business Equity Division.

Authorized Signature

Title

Company Name

Address

City/State/Zip

Printed Signature

Contact Name and Title (if different)

Phone Number

Email Address

Date

Attachment 6



Form 2

PROJECT # _____ BID # _____
 (If Applicable Please Check One)
 Amendment Change Order

Business Equity Division LETTER OF INTENT

A. Business Equity Sub-Contractor/Consultant Information:

A certified Business Equity firm is owned by a Minority or Woman Business Enterprise (MWBE)

[Pursuant to the City of Fort Worth's Business Equity Ordinance, certified Business Equity firms participating under the Ordinance must be certified prior to recommendation of award in order to be counted towards the Business Equity contract goal. Certifying agencies acceptable by the City: North Central Texas Regional Certification Agency (NCTRCA), Dallas/Fort Worth Minority Supplier Development Council, Inc. (DFW MSDC), Women's Business Council - Southwest (WBCS), or the Texas Department of Transportation (TXDOT). Note: For Federally-Funded projects the firm must be certified as a Disadvantaged Business Enterprise (DBE) by the NCTRCA and/or TXDOT only.] All Fields are Required - Do not leave blank.

1. Name of Project: _____
2. Name of Offeror/Prime Contractor: _____
3. Name of Business Equity Sub-Contractor/Consultant: _____
 Address: _____ Firm Contact Name/Phone: _____
4. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

NAICS Code(s): _____	In the amount of \$ _____
_____	_____
(Owner/ Authorized Agent) Type or Print Name	(Name of Certified Business Equity Sub-Contractor/Consultant)
_____	_____
(Signature of Owner /Authorized Agent of Certified Business Equity Firm)	(Date)
_____	_____
(Email Address)	(Phone Number)

B. Affidavit of Offeror/Prime

I HEREBY DECLARE AND AFFIRM that _____ am the duly authorized representative of
 (Owner/Authorized Agent)

_____ and that I have personally reviewed the material and facts
 (Name of Offeror/Prime)
 set forth in this Letter of Intent. To the best of my knowledge, information and belief, the facts in this form are true, and no material facts have been omitted.

Pursuant to the City of Fort Worth's Business Equity Ordinance, any person/entity that makes a false or fraudulent statement in connection with participation of a certified firm in any City of Fort Worth contract may be referred for debarment procedures under the City of Fort Worth's Business Equity Ordinance.

I do solemnly swear or affirm that the signatures contained herein and the information provided by the Offeror/Prime are true and correct, and that I am authorized on behalf of the Offeror/Prime to make the affidavit.

_____	_____
(Owner/ Authorized Agent) Type or Print Name	(Offeror/Prime Address)
_____	_____
(Signature of Owner/Authorized Agent)	(Date)
_____	_____
(Email Address)	(Phone Number)

Department of Diversity and Inclusion
 Business Equity Division
 Email: DVDN_BEOoffice@fortworthtexas.gov
 Ph: 817-392-2674

Effective 01/01/2021
 Revised 06/28/2021

ATTACHMENT 7

DBE Monitoring and Enforcement Mechanisms

The City has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract, as follows:

Enforcement Tools – Contractors – 49 CFR §26.107

- Involve OIG
- Suspension / Debarment
 - False Representation as DBE
 - Creating a front company
 - Using DBE that does perform a CUF
 - Attempt to use ineligible firm
 - Over-reporting

2. Enforcement Actions

- Conciliation Agreement
- Finding of Non-Compliance
- Restrict Drawdowns of Funds
- Inability to Start, Continue, or Complete DOT-assisted Projects;

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001.

ATTACHMENT 8

DBE Uniform Certification Application

Form <https://www.txdot.gov/business/partnerships/dbe.html>



DBE APPROVAL NO.
 1345
 Effective Date: 11/11/2017
 Appendix F
UNIFORM CERTIFICATION APPLICATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
 49 C.F.R. Parts 21 and 26

Section 1: CERTIFICATION INFORMATION (Items applying for certification as DBE/ACDBE)

A. Basic Contact Information

(1) Contact person and title (2) Legal name of firm:

(3) Phone # (4) Other Phone # (5) Fax #

(6) Email (7) Firm Website

(8) Street address of firm (No P.O. Box) City County/Parish State Zip

(9) Mailing address of firm (if different) City County/Parish State Zip

B. Prior Other Certification and Application

(10) Has your firm currently certified for any of the following U.S. DOT programs?
 DBE ACDBE Name of certifying agencies:

If you are certified in your home state as a DBE/ACDBE, you are **eligible** to complete this application for other states. Ask your state DOT about this interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date: / / State/UCP Member: / / State/UCP Member:

(11) Did certification or de-certification as a DBE, ACDBE, HUB, SDB, MBE/WBE firm? Yes No
 DBE ACDBE Name of certifying agencies:

If you explain the nature of your relationship with the other business by identifying the business or persons with whom you have any formal, informal, written or oral agreement, also attach the written document.

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) provided. (2) If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

(3) Applicable NAICS Codes for this line of work include:

(4) This firm was established on / / (4) I have owned this firm since / /

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 3 of 5

(5) Method of acquisition (Check all that apply):
 Started new business Bought existing business Inherited business Gifted Merger or consolidation Other explain:

(6) Is your firm "for profit"? Yes No **NOT FOR PROFIT:** (If you do not qualify for this program and should not use this application.)
 Federal Tax ID#

(7) Type of Legal Business Structure: (check all that apply):
 Sole Proprietorship Limited Liability Partnership Partnership Corporation Limited Liability Company Other, Describe:

(8) Number of employees: Full-time Part-time Seasonal Total

(Provide a list of employees, their job titles, and dates of employment, to your application.)

(9) Specify the firm's gross receipts for the last 3 years, include complete copies of the firm's Federal tax returns for that year. If there are any affiliates or subsidiaries of the applicant firm owned, you must submit complete copies of their form 1041 for an individual owner.

Year: / /	Gross Receipts of Applicant Firm \$	Gross Receipts of Affiliate Firm \$
Year: / /	Gross Receipts of Applicant Firm \$	Gross Receipts of Affiliate Firm \$
Year: / /	Gross Receipts of Applicant Firm \$	Gross Receipts of Affiliate Firm \$

B. Relationships and Dealings with Other Businesses
 (1) Is your firm connected at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, work warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? Yes No

If you explain the nature of your relationship with the other business by identifying the business or persons with whom you have any formal, informal, written or oral agreement, also attach the written document.

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?
 Yes No If Yes, explain:

(3) At present, or at any time in the past, has your firm:
 (a) Ever existed under different ownership, a different type of ownership, or a different name? Yes No
 (b) Been in a relationship of any other firm? Yes No
 (c) Been in a partnership in which one or more of the partners were other firms? Yes No
 (d) Owned any percentage of any other firm? Yes No
 (e) Had any subsidiary? Yes No
 (f) Entered into a subcontract or subaward from constituting more than 25% of your firm's receipts? Yes No (If yes, answer "Yes" in any of the questions in (2) and/or (3a)-(f), you may be asked to provide further details and explain whether the arrangement continues.)

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 4 of 5

Section 3: MAJORITY OWNER INFORMATION

A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: (2) Title: (3) Home Phone #: / /

(4) Home Address (Street and Number): City: State: Zip: / /

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply):
 Black Hispanic Asian Pacific Native American Subcontinent Asian Other (specify):

(7) Number of years as owner: (8) Percentage owned: %
 Class of stock owned: Date acquired: / /

(9) Initial investment to acquire ownership interest in firm: Cash \$ Real Estate \$ Equipment \$ Other \$ Describe how you acquired your business:
 Started business myself. I bought it from: I inherited it from: Other \$ (Attach documentation substantiating your investment)

B. Additional Owner Information
 (1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? Yes No If Yes, identify: Name of Business: Function/Title:

(3) Does this owner own or work for any other firms that has a relationship with this firm? (i.e. ownership interest, shared office space, financial resources, equipment, loans, personal during, etc.) Yes No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm.

(4) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? If yes, identify this activity:
 (4a) What is the personal net worth of this disadvantaged owner applying for certification? \$
 (4b) Has any trust been created for the benefit of this disadvantaged owner? Yes No (If Yes, you may be asked to provide a copy of the trust instrument.)

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No If Yes, provide their name, relationship, company type, type of business, and indicate whether they own or manage the company. (Please attach extra sheets, if needed.)

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Section 3: OWNER INFORMATION, Cont'd

A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)

(1) Full Name: (2) Title: (3) Home Phone #: / /

(4) Home Address (Street and Number): City: State: Zip: / /

(5) Gender: Male Female

(6) Ethnic group membership (Check all that apply):
 Black Hispanic Asian Pacific Native American Subcontinent Asian Other (specify):

(7) Number of years as owner: (8) Percentage owned: %
 Class of stock owned: Date acquired: / /

(9) Initial investment to acquire ownership interest in firm: Cash \$ Real Estate \$ Equipment \$ Other \$ Describe how you acquired your business:
 Started business myself. I bought it from: I inherited it from: Other \$ (Attach documentation substantiating your investment)

B. Additional Owner Information
 (1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? Yes No If Yes, identify: Name of Business: Function/Title:

(3) Does this owner own or work for any other firms that has a relationship with this firm? (i.e. ownership interest, shared office space, financial resources, equipment, loans, personal during, etc.) Yes No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm.

(4) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity:
 (4a) What is the personal net worth of this disadvantaged owner applying for certification? \$
 (4b) Has any trust been created for the benefit of this disadvantaged owner? Yes No (If Yes, you may be asked to provide a copy of the trust instrument.)

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? Yes No If Yes, provide their name, relationship, company type, type of business, and indicate whether they own or manage the company. (Please attach extra sheets, if needed.)

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Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors (if additional space is required, attach a separate sheet)

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	Mr				
	Ms				
	Mr				
	Ms				
(2) Board of Directors	Mr				
	Ms				
	Mr				
	Ms				

(3) Do any of the persons listed above perform a management or supervisory function for any other business? Yes No If Yes, identify for each:

Name: Title: Function: Name: Title: Function: Name: Title: Function:

(4) Do any of the persons listed in section 3 hold an ownership interest in another company? (i.e. ownership interest, shared office space, financial resources, personal during, etc.) Yes No If Yes, identify for each:

Name: Name of Business or Relationship: Name: Name of Business or Relationship:

B. Duties of Officers, Directors, Managers, and Key Personnel
1. Complete for all Officers who are responsible for the following functions of the firm (Attach separate sheets if needed)

	A = Always / F = Frequently	S = Seldom / N = Never	Majority Owner (75% or more) / Parent Company	Minority Owner (25% or less) / Other
Establishing or revising vision/strategic plan	A	F	S	N
Marketing and advertising	A	F	S	N
Major purchasing decisions	A	F	S	N
Marketing and sales	A	F	S	N
Human resources decisions	A	F	S	N
Financial risk management	A	F	S	N
Internal risk control and litigation	A	F	S	N
Personnel office management (Hiring, recruitment, transfers/promotions, etc.)	A	F	S	N
Finance and firm management staff	A	F	S	N
Time and labor allocation	A	F	S	N
Organize profit spending or investment	A	F	S	N
Organize business by contract order	A	F	S	N
Purchase equipment	A	F	S	N
Share business directly	A	F	S	N

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2. Complete for all Officers, Directors, Managers, and Key Personnel who are responsible for the following functions of the firm (Attach separate sheets if needed)

	A = Always / F = Frequently	S = Seldom / N = Never	Officer/Director/Manager/Key Personnel	Officer/Director/Manager/Key Personnel
Set policy for company direction/scope of operations	A	F	S	N
Marketing and advertising	A	F	S	N
Major purchasing decisions	A	F	S	N
Marketing and sales	A	F	S	N
Human resources decisions	A	F	S	N
Financial risk management	A	F	S	N
Internal risk control and litigation	A	F	S	N
Personnel office management (Hiring, recruitment, transfers/promotions, etc.)	A	F	S	N
Finance and firm management staff	A	F	S	N
Time and labor allocation	A	F	S	N
Organize profit spending or investment	A	F	S	N
Organize business by contract order	A	F	S	N
Purchase equipment	A	F	S	N
Share business directly	A	F	S	N

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, business, and their affiliation:
 Do any of the persons listed above own or work for another business? (i.e. ownership interest, shared office space, financial resources, personal during, etc.) If Yes, describe the nature of the business relationship.

C. Inventory: Indicate your firm's inventory in the following categories (Please attach additional sheets if needed)

1. Equipment and Vehicles

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral? Where is item stored?
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

2. Office Space
 Street Address Owned or Leased by Firm or Owner? Current Value of Property or Lease

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3. Storage Space (Provide signed lease agreements for the properties listed)

Street Address Owned or Leased by Firm or Owner? Current Value of Property or Lease

D. Does your firm rely on any other firm for management function or employee payroll? Yes No

E. Financial/Banking Information (Provide bank authorization and signature cards)

Name of bank: City and State:
 The following individuals are able to sign checks on this account:
 Name of bank: City and State:
 The following individuals are able to sign checks on this account:

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limit:
 Aggregate limit \$ Project limit \$

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you are the owner and any other person or firm bound in money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements.)

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

G. List all contributions or transfers of assets to your firm from any of its owners or another individual over the past two years (attach additional sheets if needed)

Contribution Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship of Donor	Relationship of Recipient
1.					
2.					
3.					

H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (Attach additional sheets if needed)

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1.			
2.			
3.			

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4. List the three largest contracts completed by your firm in the past three years, if any:

Contract Number	Name of Contractor	Name of Location of Project	Type of Work Performed	Dollar Value of Contract
1.				
2.				
3.				

J. List the three largest active jobs on which your firm is currently working:

Contract Number	Name of Prime Contractor and Project	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.						
2.						
3.						

Additional Information:

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AFFIDAVIT OF CERTIFICATION

I, the undersigned, certify that I am the majority owner of the firm named in this application. I am a member of an ethnic group identified in the U.S. Code as disadvantaged. I am a citizen of the United States. I am not currently owning or managing, or associated with, another firm that is owned or managed by a member of an ethnic group identified in the U.S. Code as disadvantaged. I am not currently owning or managing, or associated with, another firm that is owned or managed by a member of an ethnic group identified in the U.S. Code as disadvantaged. I am not currently owning or managing, or associated with, another firm that is owned or managed by a member of an ethnic group identified in the U.S. Code as disadvantaged.

I have read this affidavit of certification and the instructions to this form. I understand the meaning and consequences of this affidavit of certification and I am signing this affidavit of certification voluntarily, knowingly, and without any coercion or duress. I understand that this affidavit of certification is a public document and may be subject to public review. I understand that this affidavit of certification is a public document and may be subject to public review. I understand that this affidavit of certification is a public document and may be subject to public review.

Signature: _____ **Title:** _____

Notary Public: _____ **Signature:** _____ **Title:** _____

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UNIFORM CERTIFICATION APPLICATION

Part A: DBE/ACDBE Certification Application

Part B: DBE/ACDBE Certification Application

Part C: DBE/ACDBE Certification Application

Part D: DBE/ACDBE Certification Application

Part E: DBE/ACDBE Certification Application

Part F: DBE/ACDBE Certification Application

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ATTACHMENT 9 State's UCP Agreement



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MEMORANDUM OF UNDERSTANDING REGARDING THE ADOPTION OF THE TEXAS DEPARTMENT OF TRANSPORTATION'S FEDERALLY-APPROVED DISADVANTAGED BUSINESS ENTERPRISE PROGRAM BY THE CITY OF FORT WORTH

This Memorandum of Understanding (MOU) is by and between the TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT), an agency of the State of Texas, and THE CITY OF FORT WORTH, a political subdivision of the State of Texas.

Whereas, from time to time THE CITY OF FORT WORTH receives federal funds from the Federal Highway Administration (FHWA) through TxDOT to assist THE CITY OF FORT WORTH with the construction and design of projects partially or wholly funded through FHWA; and

Whereas, THE CITY OF FORT WORTH, as a sub-recipient of federal funds, is required by 49 CFR 26, to implement a program for disadvantaged business enterprises (DBEs), as defined by 49 CFR 26 (DBE Program); and

Whereas, TxDOT has implemented a Disadvantaged Business Enterprise Program (DBE Program) that is approved by the FHWA pursuant to 49 CFR part 26, and

Whereas, certain aspects of THE CITY OF FORT WORTH's procurement of construction and design services are subject to review and/or concurrence by TxDOT as a condition of receiving federal funds from FHWA through TxDOT; and

Whereas, THE CITY OF FORT WORTH and TxDOT undertake substantially similar roadway construction projects and design projects and construct and design their respective projects using substantially the same pool of contractors; and

Whereas, THE CITY OF FORT WORTH desires to implement a federally compliant DBE Program by adopting the TxDOT approved program, as recommended by FHWA; and

Whereas, TxDOT and THE CITY OF FORT WORTH find it appropriate to enter into this MOU to memorialize the obligations, expectations and rights each has as related to THE CITY OF FORT WORTH's adoption of the TxDOT DBE Program to meet the federal requirements;

Now, therefore, TxDOT and THE CITY OF FORT WORTH, in consideration of the mutual promises, covenants and conditions made herein, agree to and acknowledge the following:

(1) TxDOT has developed a DBE Program and annually establishes a DBE goal for Texas that is federally approved and compliant with 49 CFR 26 and other applicable laws and regulations.

(2) THE CITY OF FORT WORTH is a sub-recipient of federal assistance for construction projects and design projects and, in accordance with 49 CFR § 26.21, must comply with a federally approved DBE Program. THE CITY OF FORT WORTH receives its federal assistance through TxDOT. As a sub-recipient, THE CITY OF FORT WORTH has the option of developing its own program or adopting and operating under TxDOT's federally approved DBE Program. The FHWA recommends that sub-recipients, such as THE CITY OF FORT WORTH, adopt the DBE Program, administered through TxDOT, and THE CITY OF FORT WORTH by its prescribed protocol adopted the TxDOT DBE Program as of the date when adoption occurred.

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(3) This MOU evidences FHWA's and TxDOT's consent to the adoption of the TxDOT DBE Program by THE CITY OF FORT WORTH to achieve its DBE participation in federally assisted Construction and Design Projects.

(4) The parties will work together in good faith to assure efficient and effective implementation of the DBE Program for THE CITY OF FORT WORTH and for TxDOT.

(5) THE CITY OF FORT WORTH and TxDOT have agreed upon the following delegation of responsibilities and obligations in the administration of the DBE Program adopted by THE CITY OF FORT WORTH:

(a) THE CITY OF FORT WORTH will be responsible for project monitoring and data reporting to TxDOT. THE CITY OF FORT WORTH will furnish to TxDOT any required DBE contractor compliance reports, documents or other information as may be required from time to time to comply with federal regulations. TxDOT will provide the necessary and appropriate reporting forms, to THE CITY OF FORT WORTH.

(b) THE CITY OF FORT WORTH will recommend contract-specific DBE goals consistent with TxDOT's DBE guidelines and in consideration of the local market, project size, and nature of the goods(s) or service(s) to be acquired. THE CITY OF FORT WORTH's recommendation may be that no DBE goals are set on any particular project or portion of a project or that proposed DBE goals be modified. THE CITY OF FORT WORTH and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority regarding DBE goals.

(c) TxDOT will cooperate with THE CITY OF FORT WORTH in an effort to meet the timing and other requirements of THE CITY OF FORT WORTH projects.

(d) THE CITY OF FORT WORTH will be solely responsible for the solicitation and structuring of bids and bid documents to procure goods and services for its projects that use federal funds and will be responsible for all costs and expenses incurred in its procurement.

(e) THE DBEs eligible to participate on TxDOT construction projects or design projects also will be eligible to participate on THE CITY OF FORT WORTH construction projects or design projects subject to the DBE Program. The DBEs will be listed on TxDOT's website under the Texas Unified Certification Program (TUCP).

(f) THE CITY OF FORT WORTH will conduct reviews and provide reports with recommendations to TxDOT concerning any DBE Program compliance issues that may arise due to project specific requirements such as Good Faith Effort (GFE), Commercially Useful Function (CUF), etc. THE CITY OF FORT WORTH and TxDOT will work together to achieve a mutually acceptable goal, however, TxDOT will retain final decision-making authority on these issues and reserves the right to perform compliance reviews. THE CITY OF FORT WORTH shall provide TxDOT with a listing of sanctions that will be assessed against contractors for violation of federal DBE regulations and its procedures for investigation of violations and assessment of sanctions for documented violations. THE CITY OF FORT WORTH will require contractors for its FHWA federally assisted projects to use the attached forms as follows:

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Attachment 1 – Disadvantaged Business Enterprise (DBE) Program Commitment Agreement Form SMS 4961

Attachment 2 – DBE Monthly Progress Report Form SMS 4903

Attachment 3 – DBE Final Report Form SMS 4904

Attachment 4 – Prompt Payment Certification Form (Federal-air Projects) 2177

(g) THE CITY OF FORT WORTH will designate a liaison officer to coordinate efforts with TxDOT's DBE Program administrators and to respond to questions from the public and private sector regarding THE CITY OF FORT WORTH's administration of the DBE Program through TxDOT.

(h) THE CITY OF FORT WORTH will be responsible for providing TxDOT with DBE project awards and DBE Commitments, monthly DBE reports, DBE Final Reports, DBE shortfall reports, and annual and updated goal analysis and reports.

(i) TxDOT will be responsible for maintaining a directory of firms eligible to participate in the DBE Program, and providing business development and outreach programs. THE CITY OF FORT WORTH and TxDOT will work cooperatively to provide supportive services and outreach to DBE firms in THE CITY OF FORT WORTH area.

(j) THE CITY OF FORT WORTH will submit DBE semi-annual progress reports to TxDOT.

(k) THE CITY OF FORT WORTH will participate in TxDOT sponsored training classes to include topics on Title VI of the Civil Rights Act of 1964, DBE Annual Goals, DBE Goal Setting for Construction Projects and Design Projects, DBE Contract Provisions, and DBE Contract Compliance, which may include issues such as DBE Commitments, DBE Substitution, and Final DBE Clearance. TxDOT will include DBE contractors performing work on THE CITY OF FORT WORTH projects in the DBE Education and Outreach Programs.

(l) The Executive Director of THE CITY OF FORT WORTH will implement all federal requirements, including those stated in Attachments A through F, which are incorporated as though fully set out herein for all purposes.

(m) In accordance with 21 CFR 200.1, THE CITY OF FORT WORTH shall develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., roadwork, impacted citizens and affected communities, develop a program to conduct Title VI review of program areas, and conduct annual reviews of special emphasis program areas to determine the effectiveness of program area activities at all levels. TxDOT, in accordance with federal law, may conduct compliance reviews by TxDOT's Office of Civil Rights (OCR).

(n) THE CITY OF FORT WORTH will comply with 49 CFR 26.29 as stated in Attachment F.

(o) In the event there is a disagreement between TxDOT and THE CITY OF FORT WORTH about the implementation of THE CITY OF FORT WORTH DBE Program THE CITY OF FORT WORTH by the parties agree to meet within ten (10) days of receiving a written request from the other party of a desire to meet to resolve any disagreement. The parties will make good faith efforts to resolve any disagreement as efficiently as is reasonably possible in consultation with FHWA. Non-compliance by THE CITY OF FORT WORTH can result in restriction of federal funds to TxDOT and withholding of further federal funds upon consultation with FHWA.

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(7) This MOU becomes effective upon execution by all parties and automatically renews each year unless a party notifies the other parties of its intent to terminate the agreement.

(8) If this MOU is terminated for any reason, THE CITY OF FORT WORTH will be allowed reasonable time in which to seek approval from FHWA for an alternative DBE Program, without being deemed non-compliant with 49 CFR Part 26.

(9) This MOU applies only to projects for which THE CITY OF FORT WORTH is a subrecipient of federal funds through TxDOT. THE CITY OF FORT WORTH may also implement a Minority and Women-Owned Small Business Enterprise (M/WBE) policy and program that applies to projects for which it is not a sub-recipient of federal funds through TxDOT and which are not subject to the TxDOT DBE Program. THE CITY OF FORT WORTH may, at its option, use some aspects of the TxDOT DBE Program and other similar programs in implementing its other policies and programs for its non-federally funded projects.

(10) The following attachments to this MOU are also incorporated as if fully set out herein for all purposes:

Attachment A – FHWA Memorandum NCR-11HF-1 [relating to access required by the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973];

Attachment B – SPECIAL PROVISION – LOCAL GOVERNMENT / RMA / NON-STANDARD CONTRACTS

Attachment C – 49 CFR 26.13 (contractual assurances)

Attachment D – DBE Program Compliance Guidance for Local Government Agencies

Attachment E – FHWA Form 1273

Attachment F – Texas Department of Transportation (TxDOT) Disadvantaged Business Enterprise (DBE) Program with attachments as follows:

Attachment F1 – DBE Regulations: 49 CFR Part 26

Attachment F2 – DBE Special Provisions 000-1966

Attachment F3 – TxDOT's Organizational Chart

Attachment F4 – Measurement and Payment Special Provision 009-007

Attachment F5 – Texas Unified Certification Program (TUCP) DBE directory example and website address to the

Attachment F6 – DBE Goal Methodology

Attachment F7 – DBE Bidder Certification

Attachment F8 – DBE Joint Check Approval Form

Attachment F9 – TUCP Standard Operating Procedures (SOP)

Attachment F10 – TUCP Memorandum of Agreement (MOA)

Attachment F11 – Forms list

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(11) The following procedure shall be observed by the parties in regard to any notifications:

(a) Any notice required or permitted to be given under this MOU shall be in writing and may be effected by personal delivery, by hand delivery through a courier or a delivery service, or by registered or certified mail, postage prepaid, return receipt requested, addressed to the proper party, at the following address:

City of Fort Worth
William Johnson, Assistant Director of Housing and Economic Development Department
1000 Theobaldon Street
Fort Worth, Texas 76102

Hand Delivery:

The Fort Worth Business Assistance Center
William Johnson, Assistant Director of Housing and Economic Development Department
1150 South Freeway (at I-35W South and East Roadside)
Fort Worth, Texas 76104

Registered or Certified Mail (Return receipt requested):

City of Fort Worth
William Johnson, Assistant Director of Housing and Economic Development Department
1000 Theobaldon Street
Fort Worth, Texas 76102

TEXAS DEPARTMENT OF TRANSPORTATION
DBE Liaison
Office of Civil Rights
Address: 22 E. 11th Street
Austin, Texas 78701

(b) Notice by personal delivery or hand delivery shall be deemed effective immediately upon delivery, provided notice is given as required by Paragraph (a) hereof. Notice by registered or certified mail shall be deemed effective three (3) days after deposit in a U.S. mailbox or U.S. Post Office, provided notice is given as required by Paragraph (a) hereof.

(c) Either party hereto may change its address by giving notice as provided herein.

(12) This MOU may be modified or amended only by written instrument, signed by both THE CITY OF FORT WORTH and the TxDOT and dated subsequent to the effective date of this MOU. Except as authorized by the respective parties, no official, employee, agent, or representative of the parties has any authority, either express or implied, to modify or amend this MOU.

(13) The provisions of this MOU are severable. If any clause, sentence, provision, paragraph, or article of this MOU, or the application of this MOU to any person or circumstance is held by any court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such invalidity, illegality, or unenforceability shall not impair, invalidate, nullify, or otherwise affect the remainder of this MOU, but the effect thereof shall be limited to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or unenforceable, and the application of such clause, sentence, provision, paragraph, or article to other persons or circumstances shall not be affected; provided, however, THE CITY OF FORT WORTH and TxDOT may mutually agree to terminate this MOU.

(14) The following provisions apply in regard to construction of this MOU:

(a) Words of any gender in this MOU shall be construed to include the other, and words in either number shall be construed to include the other, unless the context in this MOU clearly requires otherwise.

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(b) When any period of time is stated in this MOU, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or national holiday, or state or county holiday, these days shall be omitted from the computation. All hours stated in this MOU are stated in Central Standard Time or in Central Daylight Savings Time, as applicable.

(15) This MOU shall not be construed in any way as a waiver by the parties of any immunity from suit or liability that parties may have by operation of law, and the parties hereby retain all of their respective affirmative defenses.

EXECUTED IN duplicate originals by TxDOT and THE CITY OF FORT WORTH, acting through each duly authorized official and effective on the latest date signed.

The signatories below confirm that they have the authority to execute this MOU and bind their principles.

TEXAS DEPARTMENT OF TRANSPORTATION

CITY OF FORT WORTH

By:
John A. Barton, P.E.
Interim Executive Director

By:
Tom Higgins
Interim City Manager

Date: 7 Oct 2011

Date: 9/28/11

ATTACHMENT 10 Small Business Element

1. Objective/Strategies

49 CFR § 26.39 - Fostering small business participation

- (1) Establishing a race-neutral small business set-aside for prime contracts under \$100,000.
- (2) In multi-year design-build contracts or other large contracts requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- (3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- (4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- (5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

References: City-Funded projects

- A. FFY2020 Disparity Study authored by CHA - Colette Holt and Associates
- B. City Council-approved Business Equity Ordinance #24534-11-2020
 - Section: 20- 368 BUSINESS EQUITY GOAL SETTING
 - Section: 20- 369 JOINT VENTURES AND MENTOR- PROTÉGÉ
 - Section: 20-370 CONTRACT PRE-AWARD COMPLIANCE PROCEDURES
 - Section: 20- 371 CONTRACT ADMINISTRATION PROCEDURES
 - Section: 20- 372 CONTRACT EXCEPTIONS AND WAIVERS.
 - Section: 20- 374 SANCTIONS.

2. Definition

Subject to Title 49 Code of Federal Regulations part 26 (49 CFR 26):

- DBE firms - Personal Net Worth standards should be consistent with 49 CFR Part 26 thresholds.
- Small Business - Size standard should be consistent with 49 CFR 26.5 and must be no larger than the Small Business Administration's size standards.
- Race Neutral definitions state that all businesses meeting the criteria outlined in this element will be considered to be small businesses, without regard to race or gender.

3. Verification

Compliant to §26.39 small business enterprise participation and DBE participation will be verified through the B2GNow Business Equity Management System, North Central Regional Certification Agency and Texas Department of Transportation certification systems.

4. Monitoring/Record Keeping

- DBE participation on projects are keyed into the B2GNow Business Equity Management System daily, and monitored and tracked
- DBE participation (RC and RN participation) is monitored and reported through the online DBE Civil Rights Connect System on an annual basis

5. Assurance

1. The program is authorized under state law;
2. Certified DBEs that meet the size criteria established under the program are presumptively eligible to participate in the program;
3. No limits are placed on the number of contracts awarded to firms participating in the program, but every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
4. Aggressive steps will be taken to encourage those minority and women owned firms that are eligible for DBE certification to become certified.
5. The program is open to small businesses regardless of their location (i.e., there is no local or other geographic preference)

Appendix

Appendix A – Minority Financial Institutions

Appendix B – Business Equity Advisory Board Meeting Agenda, Posting & Members

Appendix C – Public Outreach Virtual Event Announcements, Ads & Registrants

Appendix C-1 – List of certified D/M/WBE Attendees

Appendix D – Public Notice

Appendix E – Executive Summary – 2020 Disparity Study

Appendix F – Business Equity Ordinance #25165-10-2021

APPENDIX A
MINORITY-OWNED FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS OWNED BY MINORITIES OR WOMEN NATIONALLY			
Abacus Federal Savings Bank	Asian or Pacific Islander American Owned	(212) 285-4770	6 Bowery New York, NY 10013
American Bank National Association	Asian or Pacific Islander American Owned	(214) 358-3111	2707 West Northwest Highway Dallas, TX 75220
American First National Bank	Asian or Pacific Islander American Owned	(713) 596-2888	9999 Bellaire Boulevard Houston, TX 77036
American Plus Bank, National Association	Asian or Pacific Islander American Owned	(626) 821-9188	630 West Duarte Road Arcadia, CA 91007
Asian Pacific National Bank	Asian or Pacific Islander American Owned	(626) 457-4892	333 West Valley Boulevard San Gabriel, CA 91776
Banccentral, National Association	Women Owned	(580) 327-1122	602-612 Flynn Street Alva, OK 73717
Bank of Whittier, National Association	Asian or Pacific Islander American Owned	(562) 945-7553	15141 East Whittier Boulevard Whittier, CA 90603
Beacon National Bank	Women Owned	(415) 543-3547	88 Kearny Street, Suite 1750 San Francisco, CA 94108
Broadway Federal Bank, F.S.B.	African American Owned	(323) 634-1700	5055 Wilshire Boulevard, Suite 500 Los Angeles, CA 90036
California International Bank, N.A.	Asian or Pacific Islander American Owned	(714) 338-8712	15606 Brookhurst Avenue Suite C Westminster, CA 92683
Carver Federal Savings Bank	African American Owned	(212) 360-8810	75 West 125th Street New York, NY 10027
Commercial National Bank of Texarkana	Women Owned	(870) 773-4561	5515 Summerhill Road Texarkana, TX 75505
Commonwealth National Bank	African American Owned	(251) 476-5938	2102 Saint Stephens Road Mobile, AL 36617
Eastbank, National Association	Asian or Pacific Islander American Owned	(212) 219-9000	183 Centre Street New York, NY 10013
Embassy National Bank	Asian or Pacific Islander American Owned	(770) 822-9111	1817 North Brown Road Lawrenceville, GA 30043
Executive National Bank	Hispanic Owned	(305) 964-2442	9600 North Kendall Drive Miami, FL 33176
First National Bank and Trust Company	Native American Owned	(405) 275-8830	130 East Macarthur Shawnee, OK 74804
First National Bank in Fredonia	Women Owned	(620) 378-2151	730 Madison Fredonia, KS 66736
First National Bank in Tigerton	Women Owned	(715) 535-2291	140 Cedar Street, Cedar and Ash Streets Tigerton, WI 54486
First National Bank of Manning	Women Owned	(712) 655-3557	401 Main Street Manning, IA 51455
First National Bank of Okeene	Women Owned	(580) 822-3300	124 North Main Street

			GREENE, OR 97030
GN Bank	African American Owned	(773) 624-2000	4619 S King Dr Chicago, IL 60653
Gateway Bank, F.S.B.	Asian or Pacific Islander American Owned	(415) 831-1288	360 8th Street Oakland, CA 94607
Golden Bank, National Association	Asian or Pacific Islander American Owned	(713) 777-3838	9315 Bellaire Boulevard Houston, TX 77036
Hawaii National Bank	Asian or Pacific Islander American Owned	(808) 528-7711	45 North King Street Honolulu, HI 96817
Interamerican Bank, A FSB	Hispanic Owned	(305) 223-1434	9190 Coral Way Miami, FL 33165
Keb Hana Bank USA, National Association	Asian or Pacific Islander American Owned	(212) 689-5292	201 Main Street Fort Lee, NJ 07024
Leader Bank, National Association	Asian or Pacific Islander American Owned	(781) 646-3900	141 Massachusetts Avenue Arlington, MA 2474
Lone Star National Bank	Hispanic Owned	(956) 781-4321	206 West Ferguson Pharr, TX 78577
Mission National Bank	Asian or Pacific Islander American Owned	(415) 826-3627	3060 16th Street San Francisco, CA 94103
Native American Bank, National Association	Native American Owned	(303) 988-2727	999 18th Street, Suite 2460 Denver, CO 80202
New Omni Bank, National Association	Asian or Pacific Islander American Owned	(626) 284-5555	1235 South Garfield Avenue Alhambra, CA 91801
Ponce Bank	Hispanic Owned	(718) 931-9000	2244 Westchester Avenue Bronx, NY 10462
Quantum National Bank	Asian or Pacific Islander American Owned	(770) 945-8300	505 Peachtree Industrial Boulevard Suwanee, GA 30024
Southeast First National Bank	Women Owned	(706) 857-3473	10144 Commerce Street Summerville, GA 30747
Southwestern National Bank	Asian or Pacific Islander American Owned	(713) 771-9700	6901 Corporate Drive Houston, TX 77036
Texas National Bank	Hispanic Owned	(956) 565-2485	215 S. Texas Ave. Mercedes, TX 78570
Texas National Bank of Jacksonville	Women Owned	(903) 586-0931	300 Neches Street Jacksonville, TX 75766
The First National Bank of Gordon	Women Owned	(308) 282-0050	134 N. Main Street Gordon, NE 69343
The First National Bank of Izard County	Women Owned	(870) 297-3711	2184 AR Highway 56 Calico Rock, AR 72519
The National Bank of Malvern	Women Owned	(610) 647-0100	King and Warren Streets Malvern, PA 19355
The Santa Anna National Bank	Women Owned	(325) 348-3108	610 Wallis Avenue Santa Anna, TX 76878
Touchmark National Bank	Asian or Pacific Islander American Owned	(770) 407-6700	3651 Old Milton Parkway Alpharetta, GA 30005

Unity National Bank of Houston	African American Owned	(713) 387-7400	2602 Blodgett Street Houston, TX 77004
Universal Bank	Asian or Pacific Islander American Owned	(626) 854-2818	3455 Nogales Street-2nd Floor West Covina, CA 91792
Woodlands National Bank	Native American Owned	(888) 532-4142	122 Main Street Hinckley, MN 55037
Zapata National Bank	Hispanic Owned	(956) 765-4302	703 Hidalgo Blvd Zapata, TX 78076

APPENDIX B

BUSINESS EQUITY ADVISORY BOARD AGENDA AND PUBLIC POSTING, AND MEMBER ORGANIZATIONS IN ATTENDANCE

I, the undersigned authority, do hereby certify that the Notice of Meeting was posted on the City of Fort Worth official website and said Notice was posted on the following date and time: June 17, 2021 at 2:00 p.m., and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Mary D. Kayser
City Secretary, North City of Fort Worth, Texas



MEETING AGENDA
MINORITY AND WOMEN BUSINESS ENTERPRISE ADVISORY COMMITTEE MEETING
JUNE 25, 2021
Public Hearing: 11:30 AM

<https://fortworthtexas.webex.com/fortworthtexas/j.php?MTID=m2a34d484e23646c0d92927cdc9a1fe06>

Videoconference

Meeting/ Access Code: 1827 69 9957
Registration Required

Teleconference

(817) 392-1111 or +1-469-210-7159
Meeting/ Access Code: 1827 69 9957

Viewing Only

Television: Charter 190; One Source 7; Verizon 5; AT&T Uverse 99
City of Fort Worth Website Homepage: [Watch Live Online](#)

To view the docket for this meeting visit: <https://www.fortworthtexas.gov/calendar/boards-commission>

Due to health and safety concerns related to the COVID-19 coronavirus, this meeting will be conducted by videoconference or telephone call in accordance with the Texas Open Meetings Act and the provisions provided by the Governor of Texas in conjunction with the Declaration of Disaster enacted on March 13, 2020.

**Any member of the public who wishes to address the Commission regarding an item on the listed agenda must sign up to speak no later than 5:00PM on the day prior to the meeting. To sign up, either contact GWEN WILSON at GWEN.WILSON@FORTWORTHTEXAS.GOV or (817) 392-2676 or register through WebEx per the directions on the City's website above. Please note that the City of Fort Worth is using a third party vendor to assist with City meetings. If there are service interruptions, including call in number changes, we will provide alternative call in numbers on our website whenever possible.

The Business Equity Board is composed of the following voting members:

- Fort Worth Hispanic Chamber of Commerce ("FWHCC");
- Fort Worth Chamber of Commerce (FWCC);
- Fort Worth Metropolitan Black Chamber of Commerce ("FWMBCC");
- US Pan Asian American Chamber of Commerce ("USPAACC");
- National Association of Minority Contractors ("NAMC");
- Regional Black Contractors Association ("RBCA");
- Regional Hispanic Contractors Association ("RHCA");
- TEXO Association of General Contractors (TEXO AGC);
- Texas County Contractors Association ("TCCA");
- Native American Business Association ("NABA"); *(new)*
- Dallas/Fort Worth Minority Supplier Development Council ("DFWMSDC");
- North Central Texas Regional Certification Agency ("NCTRCA"); and
- Womens Business Council – Southwest ("WBCS").

The non-voting members are as follows:

- Black Ecumenical Leadership Association ("BELA");
- League of United Latin American Citizens ("LULAC"); *(new)*
- National Association for the Advancement of Colored People ("NAACP"); *(new)*

MWBE ADVISORY COMMITTEE
JUNE 25, 2021 Meeting Agenda



Minority and Women Business Enterprise Advisory Committee Meeting
Friday, June 25, 2021 – 11:30 A.M. – 1:00 P.M.
WebEx Meeting due to COVID-19 Pandemic

Advisory Committee Members

John Martinez - RHCA	Dee Jennings - FWMBCC	Anette Soto Landeros - FWHCC
Grace McDermott - USPAACC-SW	Brandom Gengelbach - FWCC	Jack Baxley - TEXO
Debbie Hurst -WBCS	Margo Posey – DFW MSDC	Bishop Kenneth B. Spears - BELA
Troy Woody - TCCA	YaLonda Lockett - NCTRCA	Tony Sholola - City of Fort Worth
Demetria Bivens - NAMC	Lauren Prieur – City of Fort Worth	Gwen Wilson - City of Fort Worth
Brian Glass – City of Fort Worth	David Creek - City of Fort Worth	John Baby - City of Fort Worth
Kimberly Shaw - RBCA	Robert Sturns - City of Fort Worth	Christina Brooks - City of Fort Worth

AGENDA

- I. CALL TO ORDER – Margo Posey – Chair
- II. ACTION ITEMS
 - A. Approval of Minutes from the Meeting held on April 23, 2021
- III. BRIEFINGS
 - A. Gwen Wilson, Diversity and Inclusion Assistant Director – Business Equity Division
 - Disadvantaged Business Enterprise Program
 - Business Equity Advisory Board Bylaws
 - Amendment to the Business Equity Ordinance
 - B. Christina Brooks, Chief Equity Officer/Director, Diversity and Inclusion Department
 - Recent Elections
- IV. DISCUSSION
 - A. Legislation that Affects the Board
- V. UPCOMING EVENTS
- VI. UPCOMING BIDS AND REQUESTS
- VII. CITIZEN PRESENTATIONS (3-minute limit per presentation)
- VIII. FUTURE AGENDA ITEMS
- IX. ADJOURN

Executive Session

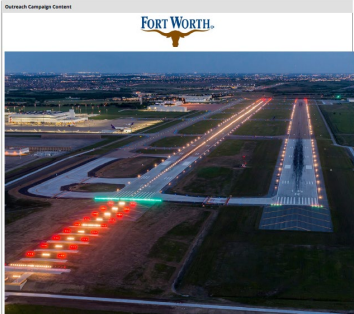
The Downtown Design Review Board will conduct a closed meeting, as necessary, to seek the advice of its attorneys concerning pending or contemplated litigation, or other matters that are exempt from public disclosure under Article X, Section 9 of the Texas State Bar Rules, and as authorized by Section 551.071 of Texas Government Code, which are related to any item appearing on this agenda.

APPENDIX C

PUBLIC OUTREACH VIRTUAL – ANNOUNCEMENT

Event was [videotaped](#) and is available on the website. Refer to [next page](#) for the list of registrants.

Business Equity Management System Campaign distribution to 2,192 D/M/WBEs



You're Invited!
Public Outreach Virtual Event

Page 1 of 3:20200505_00712638_201000001104.pdf

Projects at Fort Worth Alliance Airport and \$8 Million (31.8%) DBE Goal

City of Fort Worth Alliance Airport encourages Public Participation and Feedback on Proposed Goal

The City of Fort Worth invites the consultant and contractor community along with the general public to attend our upcoming outreach meeting to learn more about the proposed [DBE Goal Methodology for Federal Fiscal Years 2022-2024](#).

Virtual WebEx Conference
Date: July 13, 2021
Time: 9:30 AM

REGISTER ON LINE

<https://www.eventbrite.com/e/city-of-fort-worth-alliance-airport-construction-projects-for-dbes-tickets-161705915747>

We look forward to your involvement and comments in this open and important discussion.

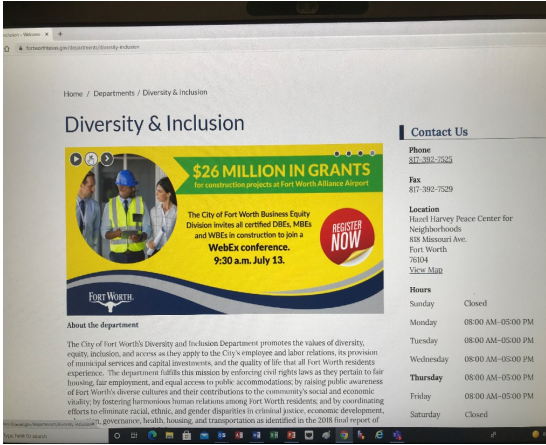
WORK CATEGORIES / TRADES:

- AIRFIELD ELECTRICAL
- AIRFIELD PAVING
- CONSTRUCTION MANAGEMENT
- DEMOLITION
- DESIGN

- DRAINAGE
- EARTHWORK
- EROSION / SED CONTROL
- FENCING
- LANDSCAPING
- MOBILIZATION
- PAVEMENT MARKINGS
- PERIMETER ROAD PAVING
- TRAFFIC CONTROL

[CONTACT US AT: DVIN_BEOffice@fortworthtexas.gov](mailto:DVIN_BEOffice@fortworthtexas.gov) for assistance.

Advertisement – DVIN Website



APPENDIX C-1 LIST OF ATTENDEES – DBE VIRTUAL EVENT HELD ON JULY 12, 2021

Last Name	First Name	Email	Attendee #
Hood	John	jhood@suffolk.com	2510340805
Jenkins	Jesse	j7sevenlive@gmail.com	2499837365
Jhaveri	Chintan	cjhaveri@traceconsulting.us	2497010137
Johnson	Mark	mark.johnson@tlc-eng.com	2500488215
Khan	Maqsood	makouinc@gmail.com	2504536647
Kochis	David	dkochis@criadoassociates.com	2496860703
LEMBKE	JUDY	jlembke@lemcocs.com	2497275435
Leonard	Will	wleonard@LTSDESIGN.COM	2496968543
Levine	Worris	wlevine@innovativelogics.com	2505056621
Lewis	Romaine	rolewis@srjenterprises.com	2496247045
Liu	Calvin	cliu@thecgroup.com	2500589985
Martinez	John	john@regionalhca.org	2501208083
Massarella	Rodney	rmasarella@gmail.com	2508838935
Mauro	John	john.j.mauro@gte.net	2497051069
Mitchell	Patricia	Patricia@nextgenbincleaning.com	2500447713
Moore	Amy	amy@theburrellgroup.net	2497492533
Mosqueda	Ascension	aj@wrencoinspection.com	2496812295
Nicholson	Sherry	sherry.m.nicholson@gmail.com	2500506997
Nicholson	Sherry	sherry.m.nicholson@gmail.com	2510351447
Nix	Kendra	kendra.nix@5xenvironmental.com	2496786867
Ochoa	Jesus	j8a1985@gmail.com	2500021827
Palma	Andres	apalma@megengineers.com	2506403057
Patel	Denish	denish728@yahoo.com	2502316889
Pierce	Lynette	lpierce@mobileenterprises.com	2496868889
Postway	Erica	erica@ptycontractors.com	2496566503
Richardson	ShaRon	construction@dfwmsdc.com	2508047497
Rivero	Carmelo	crivero@epbassociates.com	2508177751
Rogers	Johnny	jrjogers98@gmail.com	2497188413
Rueda	Alex	arueda@ruedastrucking.com	2504925567
Ruiz	Hector	hector@ruizservices.com	2500085071
RUTLEDGE	MARK	mrutledge@momentummechanic	2508188833
Sabadach	Susan	ssabadach@genesismbs.com	2510172643
Sanchez	Angel	asanchez@mas-civil.com	2506770265
Schneider	Hilary	HRSchneider@swiftfox.com	2496579869
Serajian	Ramtin	rserajian@reyesgroup.com	2506803569
Shaikh	Tamanna	tshaikh@consultantsdb.com	2506688367
Smith	Richie	rsmith@carropainting.com	2496599031
Smith	Amanda	amanda@mahuyaindustries.com	2496831999
Smith	Kent	ksmith@austin-ind.com	2508341899
Smith	Ashanti	asmith@llanoriverfenc.com	2516349821
Snelson	Karen	ksnelson@kmceinc.com	2500781455
Sobti	Simran	simran@interstatefuellogistics.com	2507604901
Spann	Stacey	sspann@SOURCEBUILD.NET	2516587617

Last Name	First Name	Email	Attendee #
Hood	John	jhood@suffolk.com	2510340805
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Liu	Calvin	cliu@thecgroup.com	2500589985
Martinez	John	john@regionalhca.org	2501208083
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Moore	Amy	amy@theburrellgroup.net	2497492533
Mosqueda	Ascension	aj@wrencoinspection.com	2496812295
Nicholson	Sherry	sherry.m.nicholson@gmail.com	2500506997
Nicholson	Sherry	sherry.m.nicholson@gmail.com	2510351447
Nix	Kendra	kendra.nix@5xenvironmental.com	2496786867
Ochoa	Jesus	j8a1985@gmail.com	2500021827
Palma	Andres	apalma@megengineers.com	2506403057
Patel	Denish	denish728@yahoo.com	2502316889
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Ruiz	Hector	hector@ruizservices.com	2500085071
RUTLEDGE	MARK	mrutledge@momentummechanic	2508188833
Sabadach	Susan	ssabadach@genesismbs.com	2510172643
Sanchez	Angel	asanchez@mas-civil.com	2506770265
Schneider	Hilary	HRSchneider@swiftfox.com	2496579869
Serajian	Ramtin	rserajian@reyesgroup.com	2506803569
Shaikh	Tamanna	tshaikh@consultantsdb.com	2506688367
Smith	Richie	rsmith@carropainting.com	2496599031
Smith	Amanda	amanda@mahuyaindustries.com	2496831999
Smith	Kent	ksmith@austin-ind.com	2508341899
Smith	Ashanti	asmith@llanoriverfenc.com	2516349821
Snelson	Karen	ksnelson@kmceinc.com	2500781455
Sobti	Simran	simran@interstatefuellogistics.com	2507604901
Spann	Stacey	sspann@SOURCEBUILD.NET	2516587617

Last Name	First Name	Email	Attendee #
Solvey	Doug	dapsolvey@austin-ind.com	2513381047
Taylor	Mark	mdt@jaysmarkengineering.com	2500391697
Thanks	We have a small	100vmeza@mezaengineering.com	2496779713
Vega	Gabriel	gabriel.vega@regionalhca.org	2501220519
Waters	Elizabeth	info@efasteners.com	2496662321
Wayne	Hattie	hattiewayne@sbglobal.net	2496607587
Whitmore	Stephanie	stephanie@mggrayerenterprises.com	2500452811
Whitmore	Stephanie	stephanie@mggrayerenterprises.com	2515583713
Williams	Adrienne	awilliams@mccarthy.com	2489144907
Wilson	Gwen	gwen.wilson@fortworthtexas.gov	2496088703
Wilson	Gwen	gwen.wilson2@gmail.com	2496102375
WINTER-MCCREARY	MISTI	MISTI.WINTER-MCCREARY@HAT	2506926833
Wren	Anne	anne@wrencoinspection.com	2496623685
Wright	Lavera	laverawright52@gmail.com	2496108737
Younis	Mohamed	mayounis@steng-llc.com	2500571741

APPENDIX D

PUBLIC NOTICE



City of Fort Worth
Diversity and Inclusion Department
July 1, 2021

**NOTICE REGARDING THE CITY OF FORT WORTH'S
PROPOSED DBE GOAL FOR FISCAL YEAR 2022 THROUGH FISCAL YEAR 2024
FOR DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION ON ALLIANCE AIRPORT FEDERALLY-FUNDED CONTRACTS**

Please be advised that the Alliance Airport's proposed goal for Disadvantaged Business Enterprise participation on federally-funded contracts is 31.8% of \$26,191,772. This means that Alliance Airport proposes to spend \$8,320,772 with Disadvantaged Business Enterprises on upcoming federally-funded capital projects.

**PLEASE BE ADVISED THAT THE ALLIANCE AIRPORTS PROPOSED GOAL AND
RATIONAL FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION ON
FEDERALLY-FUNDED CONTRACTS IS AVAILABLE FOR INSPECTION AT:**

City of Fort Worth
Business Equity Division
Diversity and Inclusion Department
818 Missouri Avenue
Fort Worth, Texas 76104
817-392-2676

SEND COMMENTS ON THE PROPOSED GOAL TO:

Gwen Wilson, DBE Liaison
Assistant Diversity and Inclusion Director

DIVERSITY AND INCLUSION DEPARTMENT

The City of Fort Worth ★ 818 Missouri Avenue ★ Fort Worth, Texas 76104
817-392-2676 ★ Fax 817-392-7529
Email: DVIN_BEOffice@fortworthtexas.gov

Herlinda J. Bradley
DBE/ACDBE Program Compliance Specialist
Federal Aviation Administration
Office of Civil Rights – External Operations (ACR-4)
E-mail: herlinda.j.bradley@faa.gov

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the City of Fort Worth official website and said Notice was posted on the following date and time: Thursday, July 01, 2021 at 3:30 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.


Interim City Secretary for the City of Fort Worth, Texas

EXHIBIT E

Source: 2020 Disparity Study

<https://www.fortworthtexas.gov/departments/diversity-inclusion/business-equity>

I. EXECUTIVE SUMMARY

A. Study Methodology and Data

Colette Holt & Associates (CHA) was retained by the City of Fort Worth (“the City”) to perform a study regarding its Business Diversity Enterprise (“BDE”) program for Minority- and Women-Owned Business Enterprises (“M/WBEs”). The methodology for this study embodies the constitutional principles of *City of Richmond v. Croson*, Fifth Circuit Court of Appeals case law and best practices for designing race- and gender-conscious and small business contracting programs. The CHA approach has been specifically upheld by the federal courts. It is also the approach developed by Ms. Holt for the National Academy of Sciences that is now the recommended standard for designing legally defensible disparity studies.

We determined the City’s utilization of M/WBEs during fiscal years 2013 through 2018; the availability of these firms as a percentage of all firms in the City’s geographic and industry market areas; and any disparities between the City’s utilization of M/WBEs and M/WBE availability. We further analyzed disparities in the wider Dallas-Fort Worth Metroplex economy, where affirmative action is rarely practiced, to evaluate whether barriers continue to impede opportunities for minorities and women when remedial intervention is not imposed. We further gathered anecdotal and qualitative data about the experiences of minority- and women-owned firms in obtaining City contracts and the associated contracts and concession opportunities. We evaluated the City’s programs for conformance with constitutional standards, national best practices, and the M/WBE program regulations.

Based on the results of these extensive analyses, we made recommendations for the City’s business diversity programs.

B. Legal Standards

COMMENTS:

- DBEs / M/WBEs during virtual call requested a copy of presentation
- DBELO committed to making presentation available on the website
- DBELO will send out a notice to all participants that the DBE Goal has been adjusted from 31.77% to 32.89%
- Aviation representatives attended the virtual meeting and answered questions posed by the participants

APPENDIX F

CITY COUNCIL-APPROVED BUSINESS EQUITY ORDINANCE (AMENDED OCT. 19, 2021)

ORDINANCE NO. 25165-10-2021

AN ORDINANCE AMENDING CHAPTER 20, ARTICLE X OF THE CODE OF THE CITY OF FORT WORTH (2015), AS AMENDED, AS SHOWN ON THE ATTACHED EXHIBIT A, MAKING CHANGES INCLUDING, BUT NOT LIMITED TO NEW DEFINITIONS FOR THE CITY'S MARKETPLACE AND SIGNIFICANT BUSINESS PRESENCE, BROADENING THE DEFINITION OF A CONTRACT, AND MAKING CERTAIN ADDITIONS, INCLUDING, BUT NOT LIMITED TO ADDING A MECHANISM FOR COUNTING OUT-OF-MARKETPLACE BUSINESS EQUITY FIRMS TOWARD MEETING BUSINESS EQUITY GOALS, DETAILING PAYMENT REPORTING PROCEDURES, AND CLARIFYING THE VIOLATIONS AND SANCTIONS SECTION; PROVIDING A SAVINGS AND A CUMULATIVE CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 17, 2020, the Fort Worth City Council approved Ordinance No. 54531-11-2020 (the "Business Equity Ordinance") that repealed all previous minority and women business enterprise ordinances and policies previously adopted and enacted a new business equity program in accordance with federal law and the findings of the City's most recent Disparity Study; and

WHEREAS, the Disparity Study supports the City's compelling interest in continuing a race and gender-conscious Business Equity Firm program because statistical data and anecdotal testimony provide a sound basis for use of narrowly tailored remedial race and gender-based measures to ensure equal opportunities for all firms to do business with the City; and

WHEREAS, City staff determined that Chapter 20, Article X of the Code of the City of Fort Worth (the "Article") which was repealed and replaced in the Business Equity Ordinance needed further changes and addition; and

WHEREAS, it is the City Council's intent for this ordinance to clarify the Business Equity Ordinance and Article and add certain terms to the Article that reflect the business processes of the City that will continue to reduce barriers to opportunities on City contracts for Business Equity Firms.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:

SECTION 1.

That the Code of the City of Fort Worth, Texas (2015), as amended, is hereby further amended by changing portions of Chapter 20, Article X: Minority and Women Business Enterprises as detailed on Exhibit "A," attached hereto and incorporated herein. The provisions of this ordinance shall apply to all Contracts (as defined in Exhibit A) unless explicitly excepted, awarded by the City, except as may be hereafter specifically exempted. Definitions for this

ordinance and Contract administration procedures, including Debarment and Sanctions for Bidders, Contractors, Business Equity Firms, and other parties related to this ordinance are described on Exhibit "A."

SECTION 2.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances of the Code of the City of Fort Worth, Texas, (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4.

This ordinance shall be in full force and effect for any procurement or contracting activity where formal solicitation from on and after approval, and it is so ordained. This ordinance shall terminate on December 31, 2030, the same date of termination as the Business Equity Ordinance.

APPROVED AS TO FORM AND LEGALITY:

JB Strong
JB Strong | Oct 21, 2021 10:51 CDT
Senior Assistant City Attorney

Ronald P. Gonzales
Ronald P. Gonzales
Acting City Secretary

ADOPTED: October 19, 2021

EFFECTIVE: October 19, 2021



EXHIBIT "A"

TABLE OF CONTENTS

§ 20-366	Definitions
§ 20-367	Purpose and Application
§ 20-368	Business Equity Goal Setting
§ 20-369	Joint Ventures and Mentor-Protégé
§ 20-370	Contract Award Compliance Procedures
§ 20-371	Contract Administration Procedures
§ 20-372	Contract Exceptions and Waivers
§ 20-373	Violations and Sanctions
§ 20-374	Appeal
§ 20-375	Sunset Date
§§ 20-376 - 20-382	Reserved

§ 20-366 DEFINITIONS.

(a) *Annual Goal* means the overall target for Business Equity Firm utilization in Contracts (prime contracts and subcontracts combined) as defined by the calculation method used in the City's most recent Disparity Study, and should be the basis for consideration of overall, annual spending targets for City Funds. This target can be the City's goal for its overall spending with certified firms across all industry categories.

(b) *Article* means Chapter 20, Article X Code of the City of Fort Worth (2015).

(c) *Best Value* means a procurement method in which the selected Bidder is not determined solely by the lowest price bid.

(d) *Bidder* means any Person seeking to be awarded a Contract.

(e) *Bid Shopping* the practice of divulging a contractor's or Subcontractor's bid to other prospective contractor(s) or Subcontractor(s) before the award of a contract in order to secure a lower bid.

(f) *Business Equity Board* is the group of industry stakeholders established by City Council tasked with advising the City on Business Equity Firm participation in City procurement activities and is formerly known as the Minority and Women Business Enterprise Advisory Committee.

(g) *Business Equity Firm* means an Independent Firm that is a Certified MBE and or WBE with a Significant Business Presence in the City's Marketplace.

(h) *Business Equity Goal* means a calculation prepared by the DVIN that includes all the following factors: the detailed cost estimate of the work to be performed, or goods purchased; the Marketplace; the availability of Business Equity Firms and non-Business Equity Firms in the Marketplace determined on a Contract-by-Contract basis; and the subcontracting/supplier opportunities of each project.

(i) *Business Equity Management System* means an online business equity contract tracking system utilized by DVIN.

(j) *Certified* means those firms identified by the North American Industry Classification System (NAICS) that have been determined to be a bona fide MBE or WBE by the North Central Texas Regional Certification Agency (NCTRCA), the Dallas/Fort Worth Minority Supplier Development Council (DFW/MSDC), Women's Business Council-SW (WBCS), Texas Department of Transportation (TxDOT) or other certifying agency that the DVIN may deem appropriate and accepted by the City of Fort Worth.

(k) *City* means the City of Fort Worth, Texas.

(l) *City Funds* means all revenues derived from any source other than federal or state grants or allocations.

(m) *City Manager* means the City Manager of the City of Fort Worth, Texas.

(n) *Combined Project* means a construction contract including more than one of the following: paving, drainage, or water/sanitary sewer; the term does not include a standard water/sanitary sewer contract where the pavement is only temporarily or permanently repaired incidental to the water/sewer work.

(o) *Commercially Useful Function* means responsibility for the execution of a distinct element of the work of a Contract, which is carried out by actually providing materials, equipment, supplies, goods, or performing, managing, and supervising the work.

(p) *Construction* means the processes involved in delivering buildings, infrastructure, or facilities; the term includes but is not limited to the erection, rehabilitation, alteration, conversion, extension, demolition, improvement, remodeling or repair to any real property, including streets, storm drains and facilities providing utility service owned by the City.

(q) *Contract* means any purchase order or contract that (i) involves expenditure of \$100,000 or more of City Funds; (ii) could use Subcontractors; and (iii) is awarded by the City, whether directly or indirectly, for work, labor, services, supplies, equipment, professional services, goods, construction, or construction-related activities, and materials or any combination of the foregoing; the term specifically includes but shall not be limited to, any purchase or lease of materials pursuant to Texas state law, any public work project authorized pursuant to Texas state law, or contract in which public bids are not required by law. A Contract does not include an Emergency Contract.

(r) *Contractor* means any Person that has been awarded a Contract.

(s) *Debar or Debarment* means the City will not consider offers from or award new contracts to a Bidder. A debarred Business Equity Firm shall not be included in calculating a Business Equity Goal.

(t) *Disparity Study* means the City of Fort Worth Disparity Study finalized and presented to City Council on June 16, 2020 or a study presented to the City Council after that date.

(u) *Doing Business* means engaging in for-profit activities in the scope of the expertise of the firm and having a physical location and/or digital presence from which to do so.

(v) *DVIN* means the City's Department of Diversity and Inclusion.

(w) *Emergency Contract* means a Contract that is awarded on an emergency basis due to a threat of harm to person or property or threat of disruption of governmental services and approved by the City Attorney's office as an emergency contract exempt from Texas public bidding laws.

(x) *Good Faith Efforts* means the actions undertaken by a Contractor and approved by DVIN as described in §20-370, below.

(y) *Horizontal Construction* means construction of highways, roads, streets, bridges, utilities, water supply projects, water plans, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction as referenced in this Article.

(z) *Independent Firm* means a Person whose viability does not depend on its relationship with another Person.

(aa) *Joint Venture* means a business entity formed by two or more independent Persons for the purpose of pursuing a common objective, such as a prime contract. The resulting business entity has additional resources and capacity, enhancing its ability to compete for larger awards. A joint venture is generally characterized by shared ownership, shared returns and risks, and shared governance. In a joint venture, the prime managing partner holds 51% or more interest in the business. Partner(s) hold less than 51% interest but in most cases, not less than 20%.

- (bb) *Marketplace* means the geographic area as defined by the City's most current Disparity Study.
- (cc) *Mayor* means the Mayor of the City of Fort Worth, Texas.
- (dd) *Mentor Protégé Program* means the mentor protégé program described more fully in §20-369, below.
- (ce) *Minority Individual* means a person who is a member of any of the following:
- (1) *Black Americans* means persons having origins in any of the Black racial groups of Africa;
 - (2) *Hispanic Americans* means persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (3) *Native Americans* means persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
 - (4) *Asian-Pacific Americans* means persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong; and
 - (5) *Subcontinent Asian Americans* means persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.
- (ff) *Minority-Owned Business Enterprise (MBE)* means a business entity, including but not limited to a sole proprietorship, partnership, corporation, limited liability company, association or joint venture:
- (1) which is at least fifty one percent (51%) owned by one or more Minority Individuals, or in the case of a publicly traded business, at least fifty one percent (51%) of all classes of the stock of which is owned by one or more Minority Individuals; and
 - (2) whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more such more Minority Individuals.
- (gg) *Person* means a natural person or business entity, including but not limited to a sole proprietorship, partnership, corporation, limited liability company, association or joint venture.
- (hh) *Program* means the Administrative Regulations for contracts with Business Equity Firms that do not involve Subcontractors.
- (ii) *Responsive* means that a Person is in compliance with the requirements of this Article.
- (jj) *Significant Business Presence* means a Person (1) which has its principal place of business located inside the Marketplace; (2) which has its principal place of business located outside the Marketplace but has been verified to be in existence for a minimum of 24 months and from which at least 20% of the business's workforce is based in the Marketplace; or (3) which has cumulative business receipts greater than \$1,000,000 for work done in the Marketplace since January 1, 2013.
- (kk) *Solicitation* means the process of inviting companies to bid on opportunities to provide goods and services.

- (ll) *Subcontractor* means any person entering into a contract with a Contractor or a higher Tier Subcontractor to directly furnish services or supplies toward the Contract.
- (mm) *Tier* means the numerical level of subcontracting below the Contractor.
- (nn) *Utilization Plan* means the list of Business Equity Firms that a Contractor commits will be utilized to meet the Business Equity Goal for a specific project, the scopes of the work and the dollar values or the percentages of the work to be performed.
- (oo) *Vertical Construction* means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, buildings, the design and construction of which are governed by accepted building codes.
- (pp) *Woman* means an adult person of the female gender.
- (qq) *Women-Owned Business Enterprise (WBE)* means a business entity, including but not limited to a sole proprietorship, partnership, corporation, limited liability company, association or joint venture:
 - (1) which is at least fifty-one percent (51%) owned by one or more women, or in the case of a publicly traded business, at least fifty-one percent (51%) of all classes of the stock of which is owned by one or more women; and
 - (2) whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more such women.

§20-367 PURPOSE AND APPLICATION.

- (a) The purpose of this Article is to remedy past underutilization and provide a fair and level playing field for Business Equity Firms and to encourage the participation of Business Equity Firms to contract with the City.
- (b) It is intended to promote equal opportunity and the utilization of Business Equity Firms in the City's contracting opportunities.
- (c) This Article applies to any Contract awarded by the City or any of its departments, boards or commissions for work, labor, services, supplies, equipment, materials or any combination of the foregoing; specifically including but not be limited to, any purchase or lease of materials, any public work project, or contract in which public bids are not required by law.
- (d) The requirements of this Article shall not apply to Emergency Contracts, however any department that procures an Emergency Contract must notify the DVIN, in writing, at the time it seeks legal approval of an Emergency Contract.
- (e) Where Contracts involve the expenditure of federal or state funds, the state or federal policy related to Business Equity Firms participation may take precedence over this Article.
- (f) The provisions of this Article shall be liberally construed for the accomplishment of its policies and purposes.

(g) Narrowly tailored goals shall be established in the areas of procurement and contracting.

(h) A Business Equity Goal may be set on a Contract-by-Contract basis based on the type of work or services to be performed, or goods to be acquired and the availability of Business Equity Firms in the Marketplace.

(i) All required notifications under this Article must be made to the DVIN at the following email address: DVIN_BEOffice@fortworthtexas.gov.

§20-368 BUSINESS EQUITY GOAL SETTING

(a) A Business Equity Goal should be set by DVIN for the entire scope of work on a Contract.

(b) A Business Equity Goal shall be expressed in terms of a percentage of the total dollar value of each Contract awarded by the City.

(c) Except as stated otherwise herein, a Business Equity Goal shall be established for all Contracts where Business Equity Firms exist within the Marketplace.

(d) DVIN shall set a Business Equity Goal for Community Facilities Agreements, Infrastructure Construction Agreements, and any other agreement relating to the construction of public infrastructure or a public building when the City's participation in the agreement is \$1,000,000.00 or more in City Funds.

(e) If City Funds are used in conjunction with state or federal grants or allocations, the City shall not set a Business Equity Goal for Community Development Block Grants, HOME programs, or other projects that include federal funds except where the City is mandated to set goals by state or federal requirements.

(f) A Business Equity Goal may be established for tax abatement agreements and Chapter 380 grant agreements if allowed by and in accordance with the most recently adopted Tax Abatement Policy and Chapter 380 Grant Agreement Policy.

(g) The City will count a Business Equity Firm's self-performance towards meeting a Business Equity Goal.

§20-369 JOINT VENTURES AND MENTOR-PROTÉGÉ.

(a) Joint Ventures. Where it is economically feasible, the establishment of Joint Ventures to ensure prime contracting opportunities for Business Equity Firms on certain Solicitations is encouraged. The factors used to evaluate economic feasibility, include, but are not limited to, the estimated dollar value of the Solicitation, the scope of work, the duration of the work, the complexity of the work, the availability of potential Business Equity Firm joint venture partners in the relevant market area and the nature of the work.

(1) When the City uses a procurement method other than lowest responsible bidder, the City may, at its discretion, designate a particular Solicitation as a “Joint Venture Preferred” Solicitation.

(2) A prospective Joint Venture partner shall state within its proposal or its statement of qualifications information that specifies the role and extent of the Business Equity Firm Joint Venture partner(s) involvement. Such information shall include, but is not limited to:

- i. The name of the Business Equity Firm Joint Venture partner(s) that will participate on the project.
- ii. The percentage of prime contract dollars attributable to the services to be provided by the Business Equity Firm Joint Venture partner; and, as appropriate the total dollar value of the services to be provided.
- iii. A description of the work that each Business Equity Firm Joint Venture partner shall be responsible for performing under the terms of the Joint Venture agreement.

(3) The prospective Joint Venture partner must also submit a “Joint Venture Eligibility Form.” DVIN will review the “Joint Venture Eligibility Form” and will have final approval, as to whether the proposed Joint Venture conforms to the DVIN’s definition of a Joint Venture.

(4) The Joint Venture shall ensure that, at a minimum, the following items are addressed in the formation and governance of the Joint Venture:

- i. The initial capital investment of each Joint Venture partner;
- ii. The proportional allocation of profits and losses to each Joint Venture partner;
- iii. The sharing of the right to control the ownership and management of the Joint Venture;
- iv. Actual participation of the Joint Venture partners on the project;
- v. The method of and responsibility for accounting;
- vi. The method by which disputes are resolved; and
- vii. Any additional or further information required by the DVIN as set forth in this Article, bid documents and/or otherwise.

(b) Mentor Protégé Program.

(1) The Mentor Protégé Program is designed to foster relationships between Contractors and underutilized Business Equity Firms. The objective of the Mentor Protégé Program is to provide professional guidance and support to the protégé (which must be a Business Equity Firm) in order to facilitate protégé growth and development and increase the number of Contracts and subcontracts awarded to Business Equity Firm.

(2) The mentor-protégé relationship is intended to be mutually beneficial because it allows mentors to utilize their protégés to fulfill Business Equity Goals when bidding on Contracts. It is advantageous to build a partnership prior to a Solicitation or Contract award to establish confidence in performance.

(3) DVIN shall serve as a sponsor for the Mentor Protégé Program. Companies interested in joining the Mentor Protégé Program should contact DVIN to search a list of potential Business Equity Firm protégés that may provide complementary services, and supply chain opportunities.

(4) DVIN may prioritize protégé businesses in critical areas of City procurement or Contract needs.

(5) DVIN will consider the following criteria for selection of a mentor in the Mentor Protégé Program:

- i. The mentor must be registered with the City of Fort Worth;
- ii. Previous mentoring experience and or successful prior work history;
- iii. The mentor must have been in operation for at least five years;
- iv. Ability to provide developmental guidance in areas identified by the protégé; and
- v. "Good Standing" in doing business with the City of Fort Worth and regional partners.

(6) DVIN will consider the following criteria for selection of a protégé in the Mentor Protégé Program:

- i. Eligibility and willingness become a Business Equity Firm, as defined herein;
- ii. Business in operation for at least one year;
- iii. Desire to participate with a mentoring firm;
- iv. Ability to work with DVIN in identifying the type of guidance needed for business development; and
- v. "Good Standing" in doing business with the City of Fort Worth and regional partners.

§20-370 CONTRACT AWARD COMPLIANCE PROCEDURES

(a) Any Contract that is required to publicly bid work in accordance with the use of City Funds must follow the rules in this Article, including the requirement to publicly advertise all Contracts for at least 21 days before opening any bids.

(b) All Bidders seeking to enter into a Contract with the City shall be registered as a vendor with the City.

(c) For a low bid procurement, the lowest bidder shall submit a Utilization Plan no later than 2pm on the 3rd business day after bids are opened detailing all Subcontractors the Contractor intends to utilize in its performance of a Contract. Contractors that are Business Equity Firms may count their self-performed services towards meeting a Business Equity Goal.

(d) For a Best Value procurement, all bidders who wish to be considered for evaluation scoring shall submit a Utilization Plan by 2pm on the 3rd business day after the bids are opened detailing all Subcontractors the Contractor intends to utilize in its performance of a Contract. Contractors that are Business Equity Firms may count their self-performed services towards meeting a Business Equity Goal.

(e) Non-compliance. If the lowest bidder for a low bid procurement or any bidder for a Best Value procurement does not timely submit its Utilization Plan with the required documents, that bidder will be deemed non-responsive. For a low bid procurement, the City will notify the next lowest bidder who shall then submit a Utilization Plan with required documents no later than 2 pm on the 3rd business day after the bidder receives notification. This process will be followed until a bidder submitting the required documents is selected.

(f) A bidder who was previously debarred must apply to DVIN for reinstatement in order for its bid to be considered.

(g) Good Faith Effort. Where the Bidder cannot achieve the Business Equity Goal, the Bidder must provide proof of having made Good Faith Efforts to meet the Business Equity Goal. Good Faith Effort requirement means an honest and conscientious effort by the Bidder to explore all available options to achieve, to the maximum extent practical to meet the Business Equity Goal.

(1) Compliance with each of the following steps shall satisfy the Good Faith Effort requirement absent mere pro forma efforts or proof of fraud, misrepresentation, or intentional discrimination by the Bidder:

i. List each and every opportunity for Subcontractors for the completion of a Contract. On Combined Projects list each opportunity for Subcontractors through the 2nd Tier.

ii. Obtain a current list (dated not more than six (6) months old prior to the bid open date) of Business Equity Firms from the DVIN.

iii. Solicit participation from Business Equity Firms, within the Subcontractor areas previously listed, at least ten calendar days prior to bid opening, exclusive of the day the bids are opened. Both Business Equity Firms and non-Business Equity Firms must receive the same Solicitation for each area of opportunity. The three methods identified below are acceptable for soliciting participation, and each selected method must be applied to the applicable contract. The Bidder may meet the Good Faith Effort requirement by making at least one successful contact with a Business Equity Firm using either (i) email, (ii) fax, or (iii) telephone. The Bidder

may also meet the Good Faith Effort requirement by documenting, in the manners detailed below, that at least two attempts were made using two of the three following methods:

1. Email: a copy of the sent confirmation to each Business Equity Firm with the date and time of the email printed directly from the email system for proper documentation. If an email is returned as undeliverable, then that "undeliverable message" received must be printed directly from the email system for proper documentation.
2. Fax: a copy of sent confirmation to each Business Equity Firm with the date and time printed directly from the facsimile for proper documentation. If a fax is returned as undeliverable, then that "undeliverable confirmation" received must be printed directly from the fax for proper documentation.
3. Telephone: a call log that identifies each Business Equity Firm contacted with the phone number, name of individual contacted, time, date and outcome of each phone call.

iv. Provide plans and specifications or information regarding the location of plans and specifications which shall be communicated to all Business Equity firms in each Subcontractor area.

v. Attach a copy of the Solicitation sent to the Business Equity firm identifying the instructions on how to obtain plans and specifications for this Solicitation.

vi. Submit documentation of any Business Equity Firm whose quotes were rejected. The documentation submitted should be in the form of an affidavit, include a detailed explanation of why the Business Equity firm was rejected and any supporting documentation the Bidder wishes to be considered by the City. In the event of a bona fide dispute concerning quotes, the Bidder will provide for confidential review of any relevant documentation by City personnel.

vii. All communications from the Bidder to potential Business Equity Firms shall be documented and submitted to the City.

(2) In making a Good Faith Effort determination, DVIN will also consider, at a minimum, the Bidder's efforts to:

i. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and written notices) the interest of all Business Equity Firms in the scopes of work of the Contract. The Bidder shall provide interested Business Equity Firms with timely, adequate information about the plans, specifications, and requirements of the Contract to allow such firms to respond to the Solicitation. The Bidder must follow up initial Solicitations with interested Business Equity Firms.

ii. Select portions of the work to be performed by Business Equity Firms in order to increase the likelihood that the Business Equity Goal will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate participation, even when the Bidder would otherwise prefer to perform these work items with its own forces. It is the Bidder's responsibility to make a portion of the work available to Business Equity Firms and to select those portions of the work or material needs consistent with the availability of such Business Equity Firms to facilitate their participation.

iii. Negotiate in good faith with interested Business Equity Firms. Evidence of such negotiation includes the names, addresses, and telephone numbers of Business Equity Firms that were contacted; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and why agreements could not be reached. The Bidder may not reject Business Equity Firms without sound reasons based on a thorough investigation of their capabilities. That there may be some additional costs involved in finding and using Business Equity Firms is not in itself sufficient reason for a Bidder's failure to meet the Business Equity Goal, as long as such costs are reasonable.

iv. The performance of other Bidders in meeting the Business Equity Goal may be considered. For example, when the apparent successful Bidder fails to meet the Business Equity Goal but others meet it, it may be reasonably questioned whether, with additional reasonable efforts, the apparent successful Bidder could have met the Business Equity Goal.

(h) A signed letter of intent from each listed Business Equity Firm describing the work, materials, equipment or services to be performed or provided by the Business Equity Firm and the agreed upon dollar value shall be due at the time specified in the Solicitation.

(i) If DVIN determines that a Good Faith Effort was not made, the Bidder shall be disqualified from that specific bid.

(j) Exclusive Contract and Non-Compete Agreement. A Bidder or Contractor may not require a Business Equity Firm to enter into an exclusive contract or non-compete agreement that restricts a Business Equity Firm's ability to grow and build capacity in the Marketplace unless the Business Equity Firm demonstrates to DVIN that an exclusive contract or non-compete agreement with a Bidder or Contractor will result or has resulted in the growth of the Business Equity Firm's capacity in the Marketplace and the Business Equity Firm freely consents to the contract or agreement.

(k) Bid Protest and Procedure. In accordance with City general purchasing policies, Bidders have certain rights to protest a bid award. The protesting Bidder must submit a protest, in writing, in accordance with those general purchasing policies.

(l) If a Bidder, Contractor, Subcontractor, or Business Equity Firm desires to make an allegation of discrimination based on a protected class in the City's award of a Contract, they shall submit such allegation, in writing, to DVIN before the performance of the Contract. DVIN shall refer such allegation to the City Human Resources Labor Relations Unit for investigation.

§20-371 CONTRACT ADMINISTRATION PROCEDURES

(a) Upon award of a Contract by the City that includes a Business Equity Goal, such Business Equity Goal becomes a covenant of performance by the Contractor in favor of the City.

(b) Contracts shall incorporate the Ordinance and this Article by reference, and shall provide that the Contractor's violation of the Ordinance and this Article shall constitute a breach of such Contract and may result in Debarment in accordance with the procedures outlined in this Article.

(c) The Contractor shall provide a list of all Subcontractors to be used in the performance of the Contract, and detailed Subcontractor information to the City with each request for payment submitted to the City or as otherwise directed by the DVIN.

(d) The DVIN shall monitor Subcontractor participation and Business Equity Goal attainment during the course of the Contract.

(e) The DVIN shall have full and timely access to view the Contractor's relevant books and records relating to each specific Contract with the City to determine the Contractor's compliance with its commitment to Business Equity Firm participation and the status of any Business Equity Firms performing any portion of the Contract. The DVIN shall not record, maintain copies, or disclose industry or trade secrets of a Contractor or Vendors books and records in its execution of this duty. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the Contractor's records by any officer or official of the City for any purpose.

(f) Business Equity Firm Subcontractor Substitution.

(1) The Contractor shall not make changes to the Utilization Plan or substitute Business Equity Firms named in the Utilization Plan without the prior written approval of the DVIN. Unauthorized changes or substitutions shall be a violation of this Article and a breach of Contract, and may constitute grounds for rejection of the bid or cause termination of an executed Contract for breach, the withholding of payment and/or subject the Contractor to certain sanctions.

(2) A Contractor shall not substitute a Business Equity Firm Subcontractor or perform the work designated for a Business Equity Firms with its own forces unless and until approval has been received in writing by the DVIN.

(3) The facts supporting the request for substitution of a Business Equity Firm must not have been known nor reasonably should have been known by the Contractor before the submission of the Utilization Plan.

(4) Bid Shopping as a part the substitution of a Business Equity Firm is prohibited.

(5) The Contractor must negotiate in good faith with the Business Equity Firm Subcontractor to resolve any issues between the Contractors and Business Equity Firm Subcontractor. Where there has been a mistake or disagreement about the scope of work, the Business Equity Firm can be substituted only where an agreement cannot be reached for a reasonable price for the corrected scope of work.

(6) Substitutions of the Business Equity Firm Subcontractor shall be permitted only after submission of a request for Subcontractor substitution in the Business Equity Management System and only on the following bases:

- i. Unavailability after receipt of reasonable notice to proceed;
- ii. Failure of performance;
- iii. Financial incapacity;
- iv. Refusal by the Subcontractor to honor the bid or proposal price;
- v. 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;
- vi. Failure of the Subcontractor to meet insurance, licensing or bonding requirements; or
- vii. The Subcontractor's withdrawal of its bid or proposal.

(7) The DVIN's final decision whether to permit or deny the proposed substitution, and the basis of any denial, shall be communicated to the Contractor and Business Equity Firm Subcontractor in writing within seven (7) business days of receipt of the request for substitution in the Business Equity Management System.

(8) Where the Contractor has established the basis for the substitution to the satisfaction of the City, the Contractor shall make Good Faith Efforts to fulfill the Utilization Plan. The Contractor may seek the assistance of the City in obtaining a new Business Equity Firm.

(9) If the Business Equity Goal cannot be reached and Good Faith Efforts have been made, the Contractor may substitute with a non-Business Equity Firm.

(g) Contract Amendment / Change Order. The Contractor shall comply with the provisions of this Article with respect to any contract amendments, change orders, or extra work orders.

(1) If a Contract has been assigned a Business Equity Goal and requires a reduction in work or additional work through a change order, contract amendment or other mechanism, the Contractor shall notify DVIN.

(2) If the Contract amendment, change order, or extra work adds work to a project that is already being performed by a Business Equity Firm, such firm shall be given the opportunity to perform the additional work.

(3) If the amendment, change order, or extra work adds work that like or similar work is not already being performed by a Business Equity Firm and the amount of such additional work is greater than or equal to \$100,000.00, the Contractor shall comply with Good Faith Effort requirements of this Article (exclusive of the time requirements stated therein) with respect to such additional work.

(4) A Contractor may submit an Acceptance of Previous Commitment Form (APCF) for contract amendments and change orders in which the Contractor agrees to the original Business Equity Goal for the project, inclusive of any prior change orders or amendments

(h) Prior to Contract Closeout, the DVIN shall evaluate the Contractor's fulfillment of the Business Equity Goal, considering all approved substitutions, terminations and changes to the Contract's scope of work. If the City determines that Good Faith Efforts to meet the Business Equity Goals were not made, or that fraudulent misrepresentations have been made, or any other breach of the Contract or violation of this Article has occurred, a remedy or sanction may be imposed, as provided in this Article.

(i) Contract Payment Procedures.

(1) For vertical construction Contracts, the Contractor shall submit an invoice at least monthly and the City will pay the invoice as required by the Texas Prompt Payment Act (Tex. Gov't. Code, Chap. 2251) or any successor statute. The Contractor shall pay Subcontractors as required by the Texas Prompt Payment Act or any successor statute. The Contractor's failure to make payments as provided by state law shall, in addition to any other remedies provided by law, authorize the City to withhold future payments and/or reject future bids from the Contractor until compliance with this Article is attained.

(2) For horizontal construction Contracts, procedures will be established to ensure that all progress payments are made twice a month and that Subcontractors are paid in accordance with the provisions of the Texas Prompt Payment Act (Tex. Gov't. Code, Chap. 2251) or any successor statute. A Contractor's failure to make payments as required by state law shall, in addition to any other remedies provided by state law, authorize the City to withhold future payments and/or reject future bids from the Contractor until compliance with this Article is attained.

(3) For all other Contracts, the Contractor shall pay Subcontractors as required by the Texas Prompt Payment Act (Tex. Gov't. Code, Chap. 2251) or any successor statute. The Contractor's failure to make payments as provided by state law shall, in addition to any other remedies provided by law, authorize the City to withhold future payments and/or reject future bids from the Contractor until compliance with this Article is attained.

(j) Payment Compliance Procedures.

(1) Contractors shall report receipt of all payments from the City in the Business Equity Management System related to Contracts for which a Business Equity Goal was established within 30 days of receipt of such payment.

(2) Contractors shall report all payments made to each Business Equity Firm utilized by the Contractor as a Subcontractor related to Contracts for which a Business Equity Goal was established within 30 days of making such payment.

(3) Business Equity Firm Subcontractors shall confirm the accuracy and date of all payments made by Contractors related to Contracts for which a Business Equity Goal was established in the City's Business Equity Management System within 30 days of receipt of payment.

(4) If prompted by the City's Business Equity Management System, Contractors and Business Equity Firm Subcontractors shall confirm notice and receipt of all payments.

(5) The Contractor shall notify each Business Equity Firm Subcontractor that does not confirm receipt of payment from the Contractor of its responsibility to do so in the City's Business Equity Management System and provide proof of such notification to DVIN.

(k) Contract Close-Out Procedure. At the completion of a Contract, the following procedures shall be followed by the Contractor. The Program contains further requirements of City departments for close-out procedures.

(1) The Contractor shall submit a Notice of Final Payment in the Business Equity Management System.

(2) The Contractor shall work with DVIN to correct any discrepancies in payments made under a Contract.

(3) If DVIN determines that the Contractor failed to meet the Business Equity Goal and the City made no changes that impacted the Contractor's ability to meet the Business Equity Goal, it shall be considered a breach of the Contract and DVIN may impose sanctions in accordance with this Article.

(l) Counting Business Equity Firm's Participation.

(1) In order for a Business Equity Firm to count toward a Business Equity Goal, such firm must be Certified at the time of bid submission. Business Equity Firms that are scheduled to become Certified in an additional NAICS area during execution of the Contract may count participation towards the Business Equity Goal for the additional certified work upon notifying DVIN with proof of such certification prior to completion of the work under the Contract.

(2) The entire amount of that portion of a Contract that is performed by the Business Equity Firm's workforce shall be counted toward a Business Equity Goal, including the cost of supplies and materials obtained for the work performed by the Business Equity Firm's workforce.

(3) The entire amount of fees or commissions charged 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 a Contract, shall be counted toward the Business Equity Goal, provided the fee is reasonable and not excessive as compared with fees customarily charged for similar services.

(4) When a Business Equity Firm 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 is performed by the Business Equity Firms with its own forces and for which it is separately at risk, shall be counted toward the Business Equity Goal.

(5) Only expenditures to a Business Equity Firm that is performing a Commercially Useful Function shall be counted. To determine whether a Business Equity Firm is performing a Commercially Useful Function, the City may evaluate the amount of work subcontracted, industry practices, whether the amount the registered firm is to be paid under the Contract is commensurate with the work it is actually performing and other relevant factors. A Business Equity Firm 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 participation. When a Business Equity Firm is presumed not to be performing a Commercially Useful Function, the Contractor or Business Equity Firm may present evidence to rebut this presumption.

(6) In determining achievement of a Business Equity Goal, the participation of a Business Equity Firm shall not be counted toward the Business Equity Goal until the respective amount has been paid to the Business Equity Firm.

(7) Business Equity Firms that meet the Significant Business Presence definition and bid as a Contractor or Subcontractor may count their participation towards the goal. Acceptance is on a contract-by-contract basis.

§20-372 CONTRACT EXCEPTIONS AND WAIVERS.

(a) If a Bidder or Contractor is unable to comply with the Business Equity Goal requirements for a Contract, such Bidder or Contractor may submit one of the two forms prepared by the DVIN listed below. If the DVIN denies a request to waive a goal; the Bidder or City department may appeal that denial to the City Manager whose decision on the request shall be final.

(1) A Contractor Waiver Form may be submitted if a Bidder will perform the entire contract without Subcontractors or suppliers.

(2) A Good Faith Effort Form is submitted if the Bidder or Contractor has a subcontracting and/or supplier opportunity but was unable to meet or exceed the Business Equity Goal. The Bidder or Contractor shall submit requested documentation that demonstrates a Good Faith Effort to comply with the Business Equity Goal.

§20-373 VIOLATIONS AND SANCTIONS.

(a) Violations. If a Business Equity Firm, Bidder, Contractor, Business Equity Firm Subcontractor, Vendor, or supplier (for purposes of this Section, each referred to as an “Offender”) commits a violations of this Article (including payment processing and payment of Business Equity Firm Subcontractors) or provides false or misleading information to the City in connection with submission of a bid, responses to requests for qualifications or proposals, Good Faith Efforts documentation, post-award compliance, or commits any other violations of this Article, it may result in sanctions in accordance with this section.

(b) Payment Reporting. Failure to comply with requirements for payment reporting procedures will result in an Offender being locked out the Business Equity Management System until compliance with the Business Equity Management System is achieved.

(c) Payments Withheld. Failure to comply with the provisions of the Texas Prompt Payment Act (Tex. Gov’t. Code, Chap. 2251) or any successor statute shall authorize the City to withhold payment from the Contractor until compliance is attained. Noncompliance may impact bidder evaluation scoring on future City bid opportunities.

(d) All other violations of this Article, including persistent payment issues (reporting or payment of Subcontractors) will result in the following sanctions:

(1) Warning Letter. A formal written warning letter from DVIN that shall become part of the vendor profile and may impact bidder evaluation scoring on future City bid opportunities for up to 12 months.

(2) Non-Responsive Designation. DVIN will designate an Offender as non-Responsive if DVIN determines that an Offender is not Responsive to any requirements of this Article. This designation shall prevent Offenders from bidding on Contracts for up to 6 months or until compliance is met as determined by DVIN, whichever is earlier.

(3) 1-Year Debarment. Continued failure of an Offender to comply with this Article may result in Offender being Debarred for a period of time of not less than one (1) year.

(4) 3-Year Debarment. An Offender who intentionally and/or knowingly misrepresents material facts may be Debarred for a period of time of not less than three (3) years.

(e) Debarment Procedure.

(1) DVIN shall determine whether Debarment of an Offender is appropriate. If it decides in the affirmative, DVIN shall send a written statement of facts and a recommendation for Debarment to the City Manager. The City Manager, after consultation with DVIN and the City Attorney's Office, shall ultimately decide whether Debarment is appropriate. If the City Manager upholds DVIN's recommendation for Debarment of an Offender, the City Manager shall send a certified notice to the Offender informing them of the Debarment.

(2) An Offender that receives notification of Debarment may appeal to the Business Equity Board by giving written notice within ten (10) days from the date of receipt of notice of Debarment to the City Manager and the Business Equity Board of its request for an appeal of the Debarment.

§20-374 APPEAL.

(a) The Business Equity Board shall conduct a hearing within thirty (30) days from the date of receipt of the request for any appeal of this Article, unless the appellant requests an extension of time. The Business Equity Board will notify the appellant of the hearing time and location.

(1) The appellant shall be afforded an opportunity to appear with counsel if they so desire, submit documentary evidence, and confront any witness that the City presents at the hearing.

(2) The Business Equity Board shall render its decision not more than thirty (30) days after the hearing and send a certified notice to the appellant.

(3) If the Business Equity Board upholds the sanctions, the appellant may appeal to the City Manager within ten (10) days from the date of receipt of the Business Equity Board's decision by giving written notice to the City Manager. The City Manager has the final determination whether to uphold the sanctions assigned by the Business Equity Board.

§20-375 SUNSET DATE

(a) This Article shall terminate on December 31, 2030 unless reauthorized by City Council.

§§20-376 - 20-382 RESERVED.

City of Fort Worth, Texas

Mayor and Council Communication

DATE: 10/19/21

M&C FILE NUMBER: M&C 21-0804

LOG NAME: 08FY2021AMENDBUSINESSEQUITYORDINANCE

SUBJECT

(ALL) Adopt Ordinance to Amend Ordinance No. 24534-11-2020 and Chapter 20, Licenses and Miscellaneous Business Regulations, Article X: Business Equity Firms of the City Code to Reflect Recommendations from the 2020 Fort Worth Disparity Study and Codify Current Processes

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance amending Ordinance No. 24534-11-2020 and Chapter 20, Licenses and Miscellaneous Business Regulations, Article X Business Equity Firms to make certain additions and clarifications. The additions and clarifications include: (1) certain aspects of the definition section; (2) adding a penalty schedule for failure to submit the required Business Equity Firm Utilization Plan, (3) adding additional contracts that are subject to the Ordinance; (4) adding certain protest procedures for vendors; and (5) adding Payment System Compliance Procedure.

DISCUSSION:

The Department of Diversity and Inclusion ("DVIN") determined that certain changes were necessary to Ordinance No. 54531-11-2020 ("Business Equity Ordinance") passed in November 2020 that amended Chapter 20, Article X of the City Code ("Article") in order to clarify the Article and add certain terms that reflect the business processes of the City and that will continue to reduce barriers to opportunities on City contracts for Business Equity Firms. Those changes are reflected on the attached Ordinance (in both a redlined and clean version) that amends the Article. The changes includes the following:

1. Clarifying certain definitions for Business Equity Firm, City Funds, Debarment, Marketplace, and Significant Business Presence.
2. Changing the requirements for "out of Marketplace" firms to qualify as a Business Equity Firm.
3. Stating that City participation of \$1,000,000 is required to set a Business Equity Goal for agreements relating to the construction of public infrastructure or a public building, such as Community Facilities Agreements and Infrastructure Construction Agreements.
4. Stating that the City shall not set separate local Business Equity goals on Community Development Block Grants, HOME programs, or other projects that include federal funds except where the City is mandated to set goals by state or federal requirements.
5. Stating that Business Equity Goals may be established for tax abatement agreements and Chapter 380 grant agreements in accordance with the most recently adopted "Tax Abatement Policy" and "Chapter 380 Grant Agreement Policy."
6. Adding clarifying details for payment reporting in Business Equity Management System.
7. Adding clarification on Contract Compliance including 21-day bid advertisement requirement, Utilization Plans required by 2 p.m. on 3rd business day after notification of bidder selection.
8. Adding new processes to the Violations and Sanctions section including a non-responsive designation for not submitting Utilization Plan, Warning Letters, Temporary Suspension, and how Debarred vendors may apply to DVIN for reinstatement.
9. Adding clarifications the companies operating with Exclusive Contracts and Non-Compete Clauses must now show proof of growth in capacity and consent in order to qualify as a Business Equity Firm.
10. Adding clarifications to Business Equity Listings contractors can obtain a current list (dated not more than six (6) months old prior to the bid open date) of Business Equity Firms from the DVIN.
11. Providing that the bid protest procedure is aligned with City's general purchasing policy.
12. Providing that allegations of discrimination based on a protected class in the award or performance of a contract shall be submitted, in writing, to DVIN before the award of the contract or the performance of the Contract.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will have no material effect on City funds.

Submitted for City Manager's Office by: Fernando Costa 6122

Originating Business Unit Head: Christina A. Brooks 8988

Additional Information Contact: JB Strong 7627