



## CITY OF ATLANTA


Andre Dickens  
Mayor

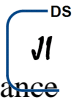
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Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

OFFICE OF CONTRACT COMPLIANCE  
Jason Ingram  
Interim Director

### MEMORANDUM

TO: **Jaideep Majumdar, Chief Procurement Officer**  
Department of Procurement

FROM: **Shona D. Dismuke, Contract Compliance Manager**   
Mayor's Office of Contract Compliance

CC: **Jason Ingram, Interim Director**   
Mayor's Office of Contract Compliance

RE: **RFP/CON/DWM/2311-1240147-Water Supply System Connection to  
Chattahoochee Water Treatment Plant (CWTP)**

DATE: **12/04/2023**

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The EBO bid documents with project specific availability for Project, **RFP/CON/DWM/2311-1240147-Water Supply System Connection to Chattahoochee Water Treatment Plant (CWTP)** are enclosed.

The entire OCC package, including both the standard and project specific EBO/EEO sections must be included in the bid documents. Please note that the enclosed package is solely for this project.

If there are questions, please contact me at (404) 330-6010, or Shona Dismuke, **OCC Sr. Manager** at (404) 330-6107.

cc: File  
**Craig Frayall, DOP**  
**Arthur Triche, OCC**



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OFFICE OF CONTRACT COMPLIANCE  
Jason Ingram  
Deputy Chief Operating Officer  
[JIngram@atlantaga.gov](mailto:JIngram@atlantaga.gov)

12/04/2023

**RE: RFP/CON/DWM/2311-1240147-Water Supply System Connection to Chattahoochee Water Treatment Plant (CWTP)**

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance (OCC) information is an integral part of every eligible City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including those owned by racial or ethnic minorities and women, opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goals for minority and female business enterprise participation for this project and the EBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

**The City of Atlanta looks forward to the opportunity to do business with your company.**

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**CITY OF ATLANTA**  
**EQUAL BUSINESS OPPORTUNITY (EBO)**  
**POLICY STATEMENT**

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis of the race or gender of their owners. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed an Equal Business Opportunity (EBO) Program. It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of the Equal Business Opportunity and Equal Employment Opportunity Programs is to mitigate the present and ongoing effects of the past and present discrimination against women and minority owned businesses and women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including minority and female owned business enterprises, must comply with the City of Atlanta's EBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

### **Implementation of EBO Policy**

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for diverse businesses, including M/FBEs, to compete for business as subcontractors and/or Suppliers. A Bidder is eligible to be further considered for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the M/FBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include **all** subcontractors (majority and minority owned) to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta M/FBE certification number and supplier id number as applicable.

For suppliers, the Subcontractor Project Plan must include **all** subcontractors (majority and minority owned), the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta M/FBE certification number and supplier id number as applicable.

### **Determination of Non-discrimination During Bid Process**

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit EBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified M/FBEs as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit EBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business by race and gender, if applicable the AABE, APABE, HABE, or FBE certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an M/FBE, the M/FBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to change the subcontractor project plan must be submitted prior to any change in the plan or termination of an M/FBE's contract.

## OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified M/FBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified M/FBEs within the relevant NAICS Codes for such Eligible Project.

(a) **Receipt of Complaint of Discrimination in the Bid Process**

The office of contract compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) **Determination of Violation of EBO Process**

Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) **Office of Contract Compliance Determination of Non-Compliance**

When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

### **Equal Business Opportunity Program Bid/RFP Submittals**

The Office of Contract Compliance will make any determination of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448 must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

### **Monitoring Of EBO Policy**

Upon execution of a contract with the City of Atlanta, the successful bidder's M/FBE Project Participation Plan will become a part of the contract between the bidder and the City of Atlanta. The M/FBE Project Participation Plan, all executed subcontract agreements, operating agreements, other contract governing documents, along with all other pertinent records required by OCC as deemed necessary will be placed on file. Said documentation shall be in a format that is established by the Office of Contract Compliance and will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific M/FBE information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, require joint check issuance, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Sections 2-1452 and 2-1456.

### **Implementation of EEO Policy**

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2010 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

### **Monitoring of EEO Policy**

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

## **Joint Venture Participation on City of Atlanta Projects**

The City of Atlanta encourages, where economically feasible, the establishment of joint ventures to ensure prime contracting opportunities for all businesses, including good faith outreach efforts to utilize certified minority and female business enterprises on Eligible Projects. On projects valued at five (5) million dollars or greater, the Office of Contract Compliance shall determine on a project-by-project basis whether non-discriminatory outreach efforts to enter into a joint venture shall be required. On such Eligible Projects, joint venture member businesses must have different race ownership, different gender ownership or both. The minority and female business enterprise members of the joint venture on projects on which a Joint Venture is required must be certified as such by the Office of Contract Compliance, and the joint venture team shall include in its bid submittal the MBE or FBE certification number of each MBE or FBE joint venture member. **OCC has made the determination non-discriminatory outreach efforts to enter into a joint venture are required for this solicitation.**

No bid on a City contract for an Eligible Project shall be accepted from a joint venture team unless each participant independently signs and submits a Covenant of non-discrimination (EBO-1)

A joint venture may submit its agreement to the Office of Contract Compliance for pre-approval to the attention of [SDismuke@atlantaga.gov](mailto:SDismuke@atlantaga.gov) no later than fourteen (14) calendar days prior to the date set for receipt of bids on an Eligible Project. Otherwise, agreements must be submitted on or before the date set for receipt of bids on an Eligible Project.

### Components of a Joint Venture Agreement

The Joint Venture agreement should include at a minimum:

- The name of the Joint Venture
- Contact information of designated primary JV contact person
- Identification of all firms participating in the JV
- The initial capital investment of each venture partner
- Terms and conditions under which future contributions may be necessary
- The proportional allocation of profits and losses to each venture partner
- Description of proportion of work controlled by and management of the joint venture team members
- The method of, and responsibility for, accounting
- Frequency of JV meetings and method for minutes taking and storage
- The methods by which disputes are resolved.
- Provide the specific citation/section of your JV that speaks to the Contract's non-discrimination and assurance requirements
- All other pertinent factors of the joint venture.
- All joint venture agreements must be signed by a member of each team.





**City of Atlanta Office of Contract Compliance**  
**Joint Venture Information Pre-Award Review-EBO**

**Proponent Instructions:** All Proponents must use their executed proposed JV agreement to complete the questions below (Attach additional pages if needed):

1. Name of Joint Venture:

2. Name, address and phone number of joint venture contact person serving as managing partner:

3. Firms participating in joint venture (use additional pages if necessary):

Name of firm:

Address:

Office Phone Number:

Primary Contact name/phone number:

% ownership: \_\_\_\_\_%

M/FBE:  No

Yes

Date of Certification:

NAICS code(s) for which certification was granted:

Name of firm:

Address:

Office Phone Number:

Contact name/phone number:

% ownership: \_\_\_\_\_%

M/FBE:  No

Yes

Date of Certification:

NAICS code(s) for which certification was granted:

4. Was there an M/FBE initial capital contribution required? Amount? \_\_\_\_\_
5. Does the JV document describe the portion of the work or elements of the business controlled by the M/FBE JV team member(s)?  No  Yes Referenced in What Section?
6. Does the JV document describe the portion of the work or elements of the business controlled by the non-M/FBE JV team member(s)?  No  Yes Referenced in What Section?
7. Does the JV document describe the M/FBE team member's involvement in the overall management of the joint venture. (e.g., participation on a management committee or managing board, voting rights, etc.)?  No  Yes Referenced in What Section?
8. Does the JV document list the M/FBE team member's share in the profits/risk in the joint venture:  No  Yes Referenced in What Section?
9. Does the JV document describe the roles and responsibilities of each joint venture participant with respect to operation of the joint venture (use additional sheets if necessary):  No  Yes Referenced in What Section?
- a. Majority interest holder joint venture participant:
  - b. Minority interest holder joint venture participant(s):

10. Does the JV document detail which firm will be responsible for accounting functions relative to the joint venture's business?

No  Yes  Referenced in What Section?

11. Does the JV document explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties?  No  Yes Referenced in What Section?

12. Did the JV document provide the name of the person who will be responsible for hiring employees for the joint venture.  No  Yes Referenced in What Section?

13. Did The JV Describe the frequency of JV meetings, method for minutes taking, and storage for audit provisions?

No  Yes Referenced in What Section?

14. Are any of the proposed joint venture employees currently employees of any of the joint venture partners?  No  Yes If yes, list the number and positions and indicate which firm currently employs the individual(s)?

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15. Did the JV Detail the methods by which disputes are resolved?

No  Yes Referenced in What Section?

16. Is a copy of the proposed joint venture agreement, promissory note(s), and loan agreement(s) (if applicable), and any and all written agreements between the joint venture partners included in the proposal submission  No  Yes Referenced in What Section?

17. Does the JV document describe all other business relationships between the joint venture participants, including other joint venture agreements in which the parties are jointly involved?  No  Yes Referenced in What Section?

18. Does the JV document provide a specific citation/section that speaks to the non-discrimination and assurance requirements related to this solicitation?  No  Yes Referenced in What Section?

Additional Comments:

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**Equal Business Opportunity M/FBE GOALS for this Project**

**Project No.: RFP/CON/DWM/2311-1240147-Water Supply System Connection to Chattahoochee Water Treatment Plant (CWTP)**

Part 1: All proponents must ensure that non-discriminatory practices are utilized to enter into a Joint Venture Agreement in accordance with the City of Atlanta's EBO/SBO Ordinance. The Joint Venture Agreement, at the very least, should reflect details of the member company's/companies' involvement in the.: **RFP/CON/DWM/2311-1240147-Water Supply System Connection to Chattahoochee Water Treatment Plant (CWTP)** project throughout the life of the contract. (See Page 6)

Part 2: All proponents must ensure that non-discriminatory practices are utilized during efforts to engage minority and female subcontractors and suppliers throughout the life of the contract. All outreach efforts must be documented and included with this bid submittal.

The dominant NAICS code and trade to be engaged for the above referenced phase is:

**237110 - Water and Sewer Line and Related Structures Construction  
238910 - Site Preparation Contractors**

The above referenced dominant NAICS code was used for the purposes of calculating the appropriate participation goal(s). However, any COA certified firm that is engaged by the successful Prime proponent who performs a commercially useful function in the execution of the project will be eligible for participation credit. The availability of certified M/FBE firms for the procurement categories in the various scopes associated with this project is:

**25% MBE & 10% FBE**

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are outlined on page 3 of this document.

**Note:** Each Joint Venture (JV) team(s) must include a signed copy of their JV agreement with their bid submission. Each JV team must consist of at least one City of Atlanta certified M/FBE partner.

OCC will count M/FBE participation in the form of a certified joint venture partner (self-performing a scope of work), and certified M/FBE subcontractor arrangements. The above referenced goal will be measured against **total contract value inclusive of any change orders and/or miscellaneous modifications** that may occur throughout the life of the project.

## **Equal Business Opportunity Program Reminders for This Solicitation**

1. **Certification.** It is the prime contractor's responsibility to verify that MBEs and FBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance.
2. **Joint Venture Agreements.** The Joint Venture member businesses must have different race ownership, different gender ownership, or both. MFBE members of the Joint Venture must be certified as such by the Office of Contract Compliance. The Joint Venture team shall include in its submittal the MFBE certification number of each MFBE Joint Venture member.
3. **Subcontractor Contact Form.** It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive. For your convenience, fillable versions of the Appendix A documents are available on the OCC webpage should you require additional pages.
4. **Reporting.** The successful bidder must submit monthly EBO participation reports to the Office of Contract Compliance in a manner as prescribed by the OCC contract monitor of record.
5. **SBO/EBO Ordinance.** The EBO Program is governed by the provisions of the SBO/EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1356 through 2 -1480. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
6. **Supplier Participation.** In order to receive full M/FBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.
7. **OCC Registry of Certified Firms.** To access OCC's real time registry of vendors (certified or non- certified), visit our SDMS Compliance Management portal at: [www.atlantaga.gob2g.com](http://www.atlantaga.gob2g.com).
8. **Contract Assurance.** The Contractor shall not discriminate on the basis of race, color, national origin, sex, religion, or sexual orientation in the performance of this contract. The contractor shall carry out applicable requirements of City ordinance 2-1448 a (2) in the award and administration of any eligible City 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 City of Atlanta deems appropriate. Anti-discrimination provisions based upon religion and sexual orientation are enforceable through the City of Atlanta regulations.

**COVENANT OF NON-DISCRIMINATION**

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms EBO-2 and EBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

\_\_\_\_\_  
Signature of Attesting Party

\_\_\_\_\_  
Title of Attesting Party

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the above covenant in my presence.

\_\_\_\_\_  
Notary Public

Seal

## SUBCONTRACTOR CONTACT FORM

List *all subcontractors or suppliers* (Majority, EBO and Non-EBO Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier/JV Partner	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Scope of Work Solicited for	Solicited for JV? (Yes or No)	Business Ownership (see code below)	M/FBE Certification No. and Expiration Date	Results of Contact



Name of Sub-contractor/ Supplier/JV Partner	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Scope of Work Solicited for	Solicited for JV? (Yes or No)	Business Ownership (see code below)	M/FBE Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HABE – Hispanic Business Enterprise, FBE – Female Business Enterprise, APABE – Asian (Pacific Islander) American Business Enterprise (SBE and DBE Certifications will not suffice for this procurement)

**Company Name:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Contract#:** \_\_\_\_\_

**Contact (Print):** \_\_\_\_\_

**Date:** \_\_\_\_\_

### EQUAL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN SUBCONTRACTOR/SUPPLIER UTILIZATION

List all Majority, EBO Certified, and Non-EBO Certified subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	Joint Venture Partner? (yes or no)	NAICS Code	Scope of Work to be Performed	Ethnicity of M/FBE Ownership (see code below)	M/FBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

Dollar Value of Prime Proponent self-Performance: \$ \_\_\_\_\_ Total MBE% \_\_\_\_\_ Total FBE% \_\_\_\_\_ Total EBO% \_\_\_\_\_

Code: AABE - African American Business Enterprise, HABE – Hispanic American Business Enterprise, FBE – Female Business Enterprise, APABE – Asian (Pacific Islander) American Business Enterprise (SBE and DBE Certifications will not suffice for this procurement)

Proponent Company Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ Contract#: \_\_\_\_\_

Proponent's Contact Number: \_\_\_\_\_ Contact Name (Print) \_\_\_\_\_ Date: \_\_\_\_\_

(THIS PAGE SHALL BE SUBMITTED FOR EACH SUB FIRM)

**LETTER OF INTENT**

Contract# \_\_\_\_\_

**Proponent**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Subcontracting Firm:**

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Sub firm Contact Person:**

Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

**Firm is performing as:**

Non-certified Sub  Certified Sub  Joint Venture Team Member

If Certified, Certification # and Expiration Date: \_\_\_\_\_

Work item(s) to be performed by Sub	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL Diversity% Credit Claimed for this Contractor			

The bidder/offeror is committed to utilizing the above-named Subcontractor firm for the work described above. The estimated participation is as follows:

Sub contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

**AFFIRMATION:**

The above-named Subcontractor firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)

\_\_\_\_\_  
(signature) (date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void

(THIS PAGE SHALL BE SUBMITTED FOR EACH SUB FIRM)

LETTER OF INTENT

Contract# \_\_\_\_\_

Proponent

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Subcontracting Firm:

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Sub firm Contact Person:

Name: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Firm is performing as:

Non-certified Sub  Certified Sub  Joint Venture Team Member

If Certified, Certification # and Expiration Date: \_\_\_\_\_

Work item(s) to be performed by Sub	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL Diversity% Credit Claimed for this Contractor			

The bidder/offeror is committed to utilizing the above-named Subcontractor firm for the work described above. The estimated participation is as follows:

Sub contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

AFFIRMATION:

The above-named Subcontractor firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
*(Print name)* *(Title)*

\_\_\_\_\_  
*(signature)* *(date)*

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void

### DIVERSITY FIRM TERMINATION/SUBSTITUTION ACKNOWLEDGEMENT FORM

As a participant in an eligible City of Atlanta (COA) diversity program contract, certain restrictions and procedures apply to the termination and substitution of a diversity certified entity by a prime concessionaire or prime contractor, as mandated by federal regulations and City ordinances. These requirements are established by 49 C.F.R. § 26.53(f), code sections 2-1356- 2-1380, and 2-1441- 2-1480 of the COA code of ordinances, as may be amended from time to time.

OCC will not allow a prime concessionaire or prime contractor to substitute or terminate a diversity program certified entity without OCC's prior written consent, which will be granted only upon a written finding of good cause. OCC requires completion of a form document to accompany the reason(s) for the request to terminate and/or substitute, which is available at:

<http://www.atlantaga.gov/modules/showdocument.aspx?documentid=491>

For ease of reference, the federal requirements are quoted below:

49 C.F.R. § 26.53(f)

- (1) (i) [OCC] must require that a prime contractor not terminate a DBE/[ACDBE] subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE/[ACDBE] firm) without [OCC's] prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE/[ACDBE] subcontractor with its own forces or those of an affiliate, a non-DBE/[ACDBE] firm, or with another DBE/[ACDBE] firm.
- (ii) [OCC] must include in each prime contract a provision stating:
  - (A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and
  - (B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE/[ACDBE].
- (2) [OCC] may provide such written consent only if [OCC] agree[s], for reasons stated in [OCC's] concurrence document, that the prime contractor has good cause to terminate the DBE/[ACDBE] firm.
- (3) For purposes of this paragraph, good cause includes the following circumstances:
  - (i) The listed DBE/[ACDBE] subcontractor fails or refuses to execute a written contract;
  - (ii) The listed DBE/[ACDBE] 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/[ACDBE] subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
  - (iii) The listed DBE/[ACDBE] subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
  - (iv) The listed DBE/[ACDBE] subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
  - (v) The listed DBE/[ACDBE] subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
  - (vi) [OCC] ha[s] determined that the listed DBE/[ACDBE] subcontractor is not a responsible contractor;
  - (vi) The listed DBE/[ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
  - (vii) The listed DBE/[ACDBE] is ineligible to receive DBE/[ACDBE] credit for the type of work required;
  - (viii) A DBE/[ACDBE] owner dies or becomes disabled with the result that the listed DBE/[ACDBE] contractor is unable to complete its work on the contract;
  - (ix) Other documented good cause that [OCC] determine[s] compels the termination of the DBE/[ACDBE] subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE/[ACDBE] it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE/[ACDBE] contractor was engaged or so that the prime contractor can substitute another DBE/[ACDBE] or non-DBE/[ACDBE] contractor after contract award.
- (4) Before transmitting to [OCC] its request to terminate and/or substitute a DBE/[ACDBE] subcontractor, the prime contractor must give notice in writing to the DBE/[ACDBE] subcontractor, with a copy to [OCC], of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE/[ACDBE] five days to respond to the prime contractor's notice and advise [OCC] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why [OCC] should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), [OCC] may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE/[ACDBE] firms put forward by offerors in negotiated procurements.

The undersigned acknowledges these requirements on behalf of the below-listed entity.

Prime: \_\_\_\_\_

Contract No.: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_