



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**

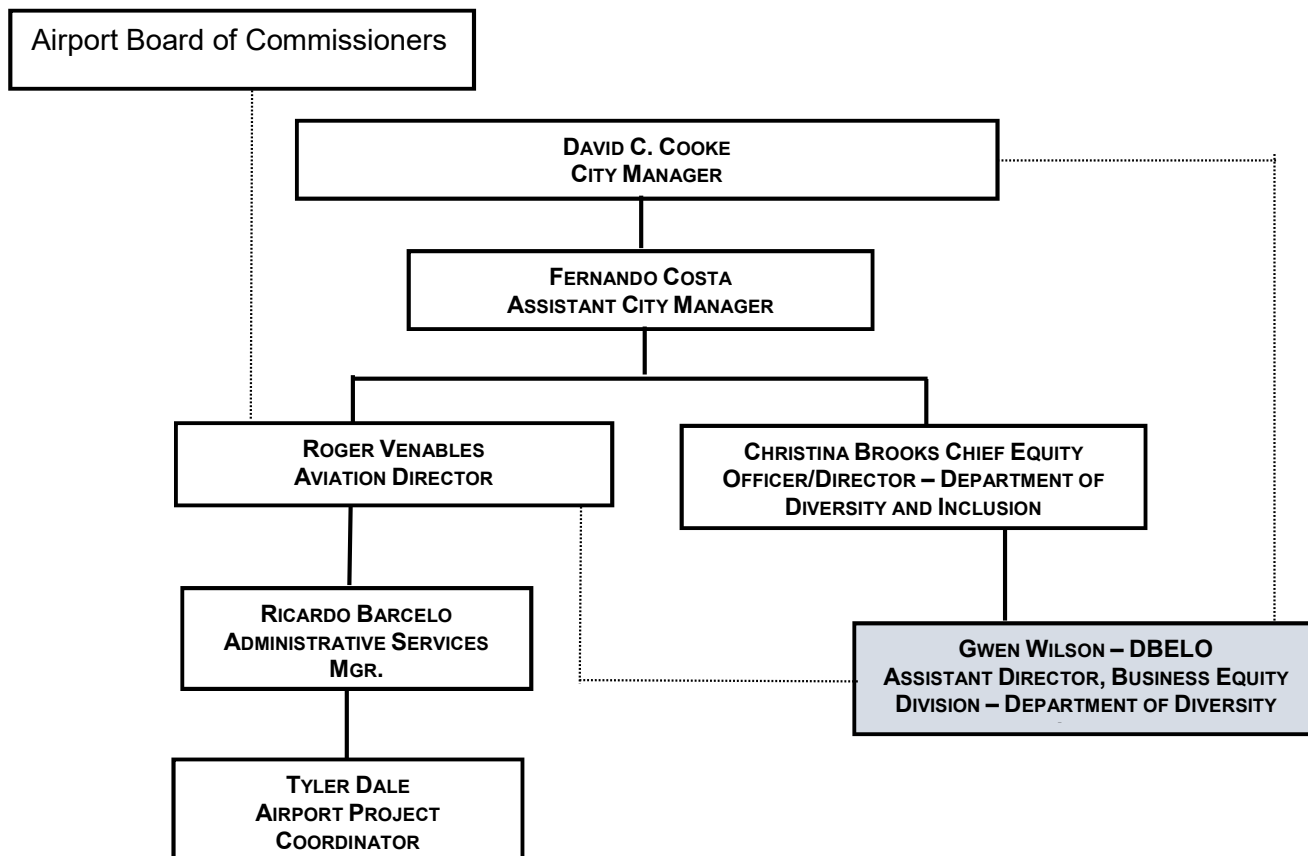
Regulations: 49 CFR Part 26, or links to website

### **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](http://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)

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

**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**

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

**Contracts #2****Fiscal Year #2**

<b>Taxiway P (TWYF to TWY G) (Design &amp; Construction)</b>	<b>\$11,389,301</b>
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**

<b>Fiscal Year #3</b>	
<b>Taxiway P (Taxiway G- H) Design &amp; Construction</b>	<b>\$13,944,747.00</b>
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**

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

*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](http://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:

Total Weighted DBE Availability: \$303,035

Divided by

= 35.36%

Total for All Trades: \$857,009

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)	<b>Design</b>	Engineering design services	541330	\$683,358	25.00%	\$170,840
	<b>Construction</b>	<b>NAICS Description</b>				
	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
	<b>Construction Management</b>	Construction Management, highway, road, street and bridge	237310	\$1,366,716	40.40%	\$552,153
<b>Year 2 Total</b>				<b>\$11,389,302</b>	<b>31.65%</b>	<b>\$3,604,494</b>

The base goal projection after weighting is as follows:

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

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	<b>Design</b>	Engineering design services	541330	\$836,685	25.00%	\$209,171
	<b>Construction</b>	<b>NAICS Description</b>	<b>NAICS</b>	<b>Trade (\$)</b>		
	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
<b>Year 3 Total</b>				<b>\$13,944,748</b>	<b>31.65%</b>	<b>\$4,413,243</b>

The base goal projection after weighting is as follows:

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

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%
<b>Totals</b>	<b>\$26,191,059</b>	<b>\$8,320,772</b>	<b>31.77%</b>

The proposed step one base percentage figures are:

$$\begin{array}{r} \text{Year 1} - 35.36\% \\ \text{Year 2} - 31.65\% \\ \text{Year 3} - 31.65\% \\ \hline 98.66\% \text{ divide by } 3 \end{array}$$

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](mailto: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](mailto: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

PRIME/OFFEROR COMPANY NAME:	Check applicable box to describe Prime/Officer's Certification	
PROJECT NAME:	<input type="checkbox"/> Business Equity Firm	<input type="checkbox"/> Non-Business Equity Firm
Business Equity Goal: %	Officer's Business Equity Goal Commitment: %	BID DATE
		PROJECT NUMBER

If the Offeror did not meet or exceed the Business Equity Goal for this project, the Prime/Officer must complete this form.

If the Prime/Officer's method of compliance with the Business Equity Goal is based upon demonstration of a "Good Faith Effort", the Prime/Officer will have the burden of correctly and accurately preparing and submitting the documentation required by the City. Compliance with each item, 1 thru 10 below, shall satisfy the Good Faith Effort requirement absent proof of fraud, intentional and/or knowing misrepresentation of the facts or intentional discrimination by the Prime/Officer.

Failure to complete this form, in its entirety with supporting documentation, and received by the Purchasing Division no later than 2:00 p.m. on the second City business day after bid opening, exclusive of bid opening date, will result in the bid being considered non-responsive to bid specifications. Exception: CFA, ICA, and CDBG projects, documents will be submitted to the City Project Manager if publicly bid or to the Developer if privately bid.

1.) Please list each and every subcontracting and/or supplier opportunity for the completion of this project, regardless of whether it is to be provided by a Business Equity firm or non-Business Equity firm. (DO NOT LIST NAMES OF FIRMS). On all projects, the Prime/Officer must list each subcontracting and/or supplier opportunity regardless of tier.

(Use additional sheets, if necessary)

List of Subcontracting Opportunities	List of Supplier Opportunities

Effective 01/01/2021

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/Officer wishes to be considered by the City. In the event of a bona fide dispute concerning quotes, the Prime/Officer 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.

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

ATTACHMENT 1C  
Page 4 of 4

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

Printed Signature

Title

Contact Name and Title (if different)

Company Name

Phone Number

Address

Email Address

City/State/Zip

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 (M/WBE)

[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-Consultant/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\_BEOffice@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 9

## State's UCP Agreement



Form 2285  
(Rev. 01/11)  
Page 1 of 6

### 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 CITY OF FORT WORTH's 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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Page 2 of 6

(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 effective and efficient 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 good(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.

(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 set all costs and expenses incurred in its procurements.

(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 those 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:

Page 3 of 6  
Form 2285 (Rev. 01/11)

Attachment 1 – Disadvantaged Business Enterprise (DBE) Program Commitment Agreement Form SMS 4901

Attachment 2 – DBE Monthly Progress Report Form SMS 4903

Attachment 3 – DBE Final Report Form SMS 4904

Attachment 4 – Prompt Payment Certification Form (Federal-aid 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 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, let, releases, impacted citizens and affected communities, develop a program to conduct Title VI reviews 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 TxDOT 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 termination of federal funds to TxDOT and withholding of further federal funds upon consultation with FHWA.

Page 4 of 6

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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 (MWOSBE) 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 HCR-1/HF-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 Throckmorton Street  
Fort Worth, Texas 76102

Hand Delivery:

The Fort Worth Business Assistance Center  
William Johnson, Assistant Director of Housing and Economic Development Department  
1130 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 Throckmorton Street  
Fort Worth, Texas 76102

TEXAS DEPARTMENT OF TRANSPORTATION  
DBE Liaison  
Office of Civil Rights  
Address: 121 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(s) 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.

Page 5 of 6  
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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

GN Bank	African American Owned	(773) 624-2000	GREENE, OR 97530 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 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: June 17, 2021 at 5:00 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

*Mary J. Kayser*  
City Secretary, Fort Worth 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=m2a34d84e23646cd95297cdc9a1fa06>

**Videoconference**

Meeting/ Access Code: 1827 69 9957  
Registration Required

**Teleconference**

(817) 392-1111 or +1-409-210-7159  
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](mailto:GWEN.WILSON@FORTWORTHTEXAS.GOV) or (817) 392-2678 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 ("USFAACC");
- 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)*



**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

MWBE ADVISORY COMMITTEE  
JUNE 25, 2021 Meeting Agenda

**Advisory Committee Members**

John Martinez - RHCA	Dee Jennings - FWMBCC	Anette Soto Landeros - FWHCC
Grace McDermott - USPAACC-SW	Brandon Genglebach - 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**

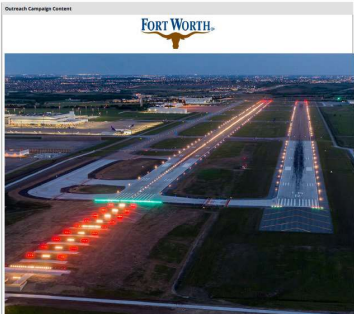
**Executive Session**

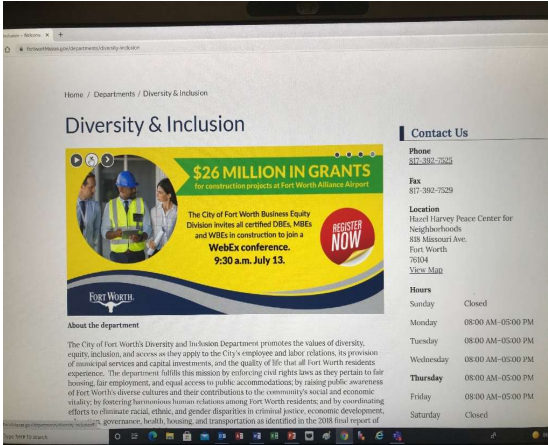
The Downtown Design Review Board will conduct a closed meeting, as necessary, to seek the advice of its attorneys concerning pending or contemplated litigation, or other matters that are exempt from public disclosure under Article X, Section 9 of the Texas State Bar Rules, and as authorized by Section 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	
 <p><b>You're Invited!</b> <b>Public Outreach Virtual Event</b></p> <p><small>Page 1 of 3 (20200505_20171019_20190301) (04.pdf)</small></p>	<p><b>Projects at Fort Worth Alliance Airport and \$8 Million (31.8%) DBE Goal</b></p> <p><b>City of Fort Worth Alliance Airport encourages Public Participation and Feedback on Proposed Goal</b></p> <p><b>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 <a href="#">DBE Goal Methodology for Federal Fiscal Years 2022-2024</a>.</b></p> <p><b>Virtual WebEx Conference</b>  <b>Date: July 13, 2021</b>  <b>Time: 9:30 AM</b>  <a href="#">REGISTER ON LINE</a>  <a href="https://www.eventbrite.com/e/city-of-fort-worth-alliance-airport-construction-projects-for-dbes-tickets-161705915747">https://www.eventbrite.com/e/city-of-fort-worth-alliance-airport-construction-projects-for-dbes-tickets-161705915747</a></p> <p><b>We look forward to your involvement and comments in this open and important discussion.</b></p> <p><b>WORK CATEGORIES / TRADES:</b></p> <ul style="list-style-type: none"> <li>• AIRFIELD ELECTRICAL</li> <li>• AIRFIELD PAVING</li> <li>• CONSTRUCTION MANAGEMENT</li> <li>• DEMOLITION</li> <li>• DESIGN</li> <li>• DRAINAGE</li> <li>• EARTHWORK</li> <li>• EROSION / SED CONTROL</li> <li>• FENCING</li> <li>• LANDSCAPING</li> <li>• MOBILIZATION</li> <li>• PAVEMENT MARKINGS</li> <li>• PERIMETER ROAD PAVING</li> <li>• TRAFFIC CONTROL</li> </ul> <p><small>CONTACT US AT: <a href="mailto:DVIN_BEOffice@fortworthtexas.gov">DVIN_BEOffice@fortworthtexas.gov</a> for assistance.</small></p>

Advertisement – DVIN Website															
 <p><b>Diversity &amp; Inclusion</b></p> <p><b>\$26 MILLION IN GRANTS</b> for construction projects at Fort Worth Alliance Airport</p> <p>The City of Fort Worth Business Equity Division invites all certified DBE, MBEs and WBEs in construction to join a WebEx conference, 9:30 a.m. July 13.</p> <p><b>REGISTER NOW</b></p> <p><b>Contact Us</b></p> <p>Phone: 817-392-7265          Fax: 817-392-7129</p> <p><b>Location</b>          Hoot Harvey Peace Center for Neighborhoods          8th Missouri Ave.          Fort Worth, TX 76104  <a href="#">View Map</a></p> <p><b>Hours</b></p> <table border="1"> <tr> <td>Sunday</td> <td>Closed</td> </tr> <tr> <td>Monday</td> <td>08:00 AM – 05:00 PM</td> </tr> <tr> <td>Tuesday</td> <td>08:00 AM – 05:00 PM</td> </tr> <tr> <td>Wednesday</td> <td>08:00 AM – 05:00 PM</td> </tr> <tr> <td>Thursday</td> <td>08:00 AM – 05:00 PM</td> </tr> <tr> <td>Friday</td> <td>08:00 AM – 05:00 PM</td> </tr> <tr> <td>Saturday</td> <td>Closed</td> </tr> </table>	Sunday	Closed	Monday	08:00 AM – 05:00 PM	Tuesday	08:00 AM – 05:00 PM	Wednesday	08:00 AM – 05:00 PM	Thursday	08:00 AM – 05:00 PM	Friday	08:00 AM – 05:00 PM	Saturday	Closed	
Sunday	Closed														
Monday	08:00 AM – 05:00 PM														
Tuesday	08:00 AM – 05:00 PM														
Wednesday	08:00 AM – 05:00 PM														
Thursday	08:00 AM – 05:00 PM														
Friday	08:00 AM – 05:00 PM														
Saturday	Closed														

## 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@srnterprises.com	2496247045
Liu	Calvin	cliu@thecgroup.com	2500589985
Martinez	John	john@regionalhca.org	2501208083
Massarella	Rodney	rmassarella@gmail.com	2508838935
Mauro	John	john.j.mauro@gte.net	2497051069
Mitchell	Patricia	Patricia@nextgenbinclining.com	2500447713
Moore	Amy	amy@theburrellgroup.net	2497492533
Mosqueda	Ascension	aj@wrencoinspection.com	2496912295
Nicholson	Sherri	sherri.m.nicholson@gmail.com	2500506997
Nicholson	Sherri	sherri.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	jroger98@gmail.com	2497188413
Rueda	Alex	arueda@rjruedastrucking.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@consultantsdlb.com	2506688367
Smith	Richie	rsmith@carcopainting.com	2496599031
Smith	Amanda	amanda@mahuyaindustries.com	2496831999
Smith	Kent	ksmith@austin-ind.com	2508341899
Smith	Ashanti	asmith@llanoriverfenc.com	2516349821
Snelson	Karen	ksnelson@kmcinc.com	2500781455
Sobti	Simran	simran@interstatefuellogistics.co	2507604901
Spann	Stacey	sspann@SOURCEBUILD.NET	2516587617

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@srnterprises.com	2496247045
Liu	Calvin	cliu@thecgroup.com	2500589985
Martinez	John	john@regionalhca.org	2501208083
Massarella	Rodney	rmassarella@gmail.com	2508838935
Mauro	John	john.j.mauro@gte.net	2497051069
Mitchell	Patricia	Patricia@nextgenbinclining.com	2500447713
Moore	Amy	amy@theburrellgroup.net	2497492533
Mosqueda	Ascension	aj@wrencoinspection.com	2496912295
Nicholson	Sherri	sherri.m.nicholson@gmail.com	2500506997
Nicholson	Sherri	sherri.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
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Rivero	Carmelo	crivero@epbassociates.com	2508177751
Rogers	Johnny	jroger98@gmail.com	2497188413
Rueda	Alex	arueda@rjruedastrucking.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@consultantsdlb.com	2506688367
Smith	Richie	rsmith@carcopainting.com	2496599031
Smith	Amanda	amanda@mahuyaindustries.com	2496831999
Smith	Kent	ksmith@austin-ind.com	2508341899
Smith	Ashanti	asmith@llanoriverfenc.com	2516349821
Snelson	Karen	ksnelson@kmcinc.com	2500781455
Sobti	Simran	simran@interstatefuellogistics.co	2507604901
Spann	Stacey	sspann@SOURCEBUILD.NET	2516587617

Last Name	First Name	Email	Attendee #
Spivey	Doug	dspivey@eustin-ind.com	2513381047
Taylor	Mark	mdt@jaysmarkengineering.com	2500391697
Thanks	We have a small	8100vmeza@mezaengineering.com	2496779713
Vega	Gabriel	gabriel.vega@regionalhca.org	250120519
Waters	Elizabeth	info@refastener.com	2496602321
Wayne	Hattie	hattiewayne@ibglobal.net	2496607587
Whitmore	Stephanie	stephanie@mcgrayenterprises.com	2500452811
Whitmore	Stephanie	stephanie@mcgrayenterprises.co	2515583713
Williams	Adrienne	awilliams@mccarthy.com	2495144907
Wilson	Gwen	gwen.wilson@fortworthtexas.gov	2496088703
Wilson	Gwen	gwen.wilson2@gmail.com	2496102375
WINTER-MCCREARY	MISTI	MISTI.WINTERMCCREARY@HYAT	2508926853
Winn	Anne	anne@wrencoinspection.com	2496623605
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:**

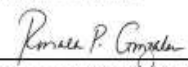
Gwen Wilson, DBE Liaison  
Assistant Diversity and Inclusion Director

**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](mailto: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](mailto: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 22, 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"**

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**§ 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](mailto: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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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.

(I) 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 Firms 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



# A Resolution

NO. 5522-01-2022

**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 25<sup>th</sup> day of January 2022.

ATTEST:

By: Jannette S. Goodall  
Jannette S. Goodall, City Secretary

