

# CITY OF AUSTIN



## **CITY CODE CHAPTER 2-9A CONSTRUCTION MANAGER AT RISK MBE/WBE PROCUREMENT PROGRAM**

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Solicitation Name: Dougherty Arts Center Facility Replacement-CMR

Solicitation Number: RFQS 6100 CLMA037

Issue Date: 6/22/2020

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**MBE/WBE GOALS**

<b>Annual/Project Participation Goals</b>			<b>OR</b>	<b>Annual/Project Participation Subgoals</b>		
MBE	-	%		African American	3.59	%
WBE	-	%		Hispanic	4.65	%
Combined MBE/WBE	-	%		Asian/Native American	2.73	%
				WBE	5.11	%

**OVERVIEW**

This document should be read in conjunction with the City of Austin’s Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance for Commodities (Chapter 2-9A & 2-9B of the Austin City Code) and the Small and Minority Business Resources Department (SMBR) Rules. The definitions contained in Chapter 2-9A & 2-9B apply to this document. The City Code and Rules are amended from time to time and the Proposer is responsible for ensuring they have the most up to date version. The City Code and Rules are incorporated into this document by reference. Copies of Chapter 2-9A & 2-9B and SMBR Rules may be obtained online at [www.austintexas.gov/smbdocuments](http://www.austintexas.gov/smbdocuments) or from SMBR, 4811 Barton Springs Rd, 8th Floor, Suite 805 Austin, Texas 78704.

**Construction Manager at Risk Project:** The City has issued initial MBE/WBE goals for the Pre-Construction Services for this project and Proposer shall submit with its qualifications response a MBE/WBE Compliance Plan meeting such goals or documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals.

Additionally, the City has determined that subcontracting opportunities will arise for Construction Phase Services of this project; however, the specific scopes of work and the magnitude of the scopes of work cannot be determined until the design for the project has been completed. When the design documents have been substantially completed, the City will establish appropriate MBE/WBE goals, and the Construction Manager under contract shall submit a MBE/WBE Compliance Plan meeting the goals or documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals with the Guaranteed Maximum Price Proposal(s).

Firms or individuals submitting responses to this Solicitation agree to abide by the City’s Minority-owned and Women-owned Business Enterprise (MBE/WBE) Procurement Program and Rules. The City’s MBE/WBE Program is intended (1) to promote and encourage MBEs and WBEs to participate in business opportunities with the City of Austin; (2) to afford MBEs and WBEs an equal opportunity to compete for work on City contracts; and (3) to encourage contractors to provide subcontracting opportunities to certified MBEs and WBEs by soliciting such Firm for subcontracting opportunities. The City of Austin and its contractors shall not discriminate on the basis of race, color, national origin, disability, or gender in the award and performance of contracts.

The City encourages Proposers to achieve the MBE/WBE participation goals and subgoals for this contract. However, Proposers may comply with the City Code and Rules without achieving the participation goals so long as they make and document Good Faith Efforts that would allow MBE and WBE participation per Section 2-9A & 2-9B-21 of the City Code and Section 9.1 of the Rules. Proposers that do not meet the project’s goals and subgoals are subject to Good Faith Efforts review.

Prior to the due date and time specified in the City's solicitation documents, all Proposers (including those Firms certified as MBE/WBEs) shall submit: (1) an *MBE/WBE Compliance Plan* (Appendix A) and (2) if it is anticipated the project goals will not be met, all appropriate documentation to demonstrate Good Faith Efforts to meet the project goals. Any questions regarding preparation of the *MBE/WBE Compliance Plan* should be directed to SMBR at [SMBRComplianceDocuments@austintexas.gov](mailto:SMBRComplianceDocuments@austintexas.gov). Such contact is not a violation of the Anti-Lobbying Ordinance.

The City has implemented Anti-Lobbying Ordinance (Chapter 2-7 of the Austin City Code). Under Chapter 2-7, there is a “no-contact” period from the date the City issues a solicitation until the contract is executed. During the “no-contact” period, a person responding to a City solicitation can speak only to the contract’s authorized contact person regarding their solicitation response. Chapter 2-7 allows certain exceptions; for instance, a person responding to a City solicitation may speak to SMBR regarding this *MBE/WBE Compliance Plan*. See the full language of the City Code or solicitation documents for further details.

## **MBE/WBE COMPLIANCE PLAN INSTRUCTIONS**

(See Appendix A)

**If the *MBE/WBE Compliance Plan* and Good Faith Efforts documentation are not submitted prior to the due date specified in the solicitation documents, the bid will be deemed non-responsive and not be accepted for consideration.**

SMBR may request written clarification of items listed on the *MBE/WBE Compliance Plan*. However, there will be no further opportunity for the Proposer to augment the MBE/WBE participation originally listed in the *MBE/WBE Compliance Plan* or to demonstrate Good Faith Efforts that were not made prior to the submission of the *MBE/WBE Compliance Plan*. Changes to the *MBE/WBE Compliance Plan* are permitted only after contract execution and only with prior written approval of SMBR.

Please type or clearly print all information, use “none” or “N/A” where appropriate, and sign and date the *MBE/WBE Compliance Plan* as indicated. ***MBE/WBE Compliance Plans* not complying with the *MBE/WBE Compliance Plan* Instructions shall be rejected as non-responsive. Submissions not utilizing the forms provided with the solicitation may render the submission nonresponsive or noncompliant.**

### **Section I Project Identification and Goals**

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Proposer does not need to fill in any information under Section I.

### **Section II Proposer Information**

The Proposer should complete this section with its information and sign in the space provided. The portion of Section II marked as “Reserved for City of Austin SMBR Only” should be left blank.

### **Section III MBE/WBE Compliance Plan Summary & Statement of Responsibility**

This section is a summary of subcontractor participation for this Bid. Proposer should complete Sections IV-VII, described below, before attempting to complete Section III. After completing Sections IV-VII, calculate the percentage of MBE/WBE participation for each goal and enter the information in the blanks provided. Because Section III is a summary, if there are any inconsistencies between Sections IV-VII and Section III, the calculations contained in Sections IV-VII will prevail. If the Proposer indicates that they do not anticipate meeting the goals with certified MBE/WBE firms, then the Proposer shall submit documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals. The MBE/WBE Compliance Plan will be reviewed and approved by the Small and Minority Business Resources Department.

### **Section IV Disclosure of MBE and WBE Subcontractors**

Please list all certified MBE/WBEs subcontractors using the legal name under which they are registered to do business with the City of Austin and the value of the work they will be performing themselves except for subcontractor(s) that will be performing the trucking or hauling scope of work (see Section VII below). Do not include the value of work that the MBE/WBE’s subcontractors will be subcontracting to second-level subcontractors. By listing certified MBE and WBE Firms on the MBE/WBE Compliance Plan, the Proposer indicates that both parties acknowledge the price and scope of work and that they are prepared to contract for that price and scope if the City awards the project to the Proposer. Unit price subcontracts are acceptable if appropriate to the type of work being performed. A Letter of Intent (LOI) does not replace a binding contract between a prime contractor and a subcontractor.

Before completing Section IV of the *MBE/WBE Compliance Plan*, please read the following instructions regarding how to count MBE/WBE participation:

- (A) Only the value of the work actually performed by the MBE/WBE shall be counted toward the goals. This includes:
  - (1) work performed by the MBE/WBE's own forces;
  - (2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the MBE/WBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the goal); and
  - (3) fees or commissions charged by an MBE/WBE 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, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- (B) When a Proposer purchases supplies, materials, or equipment from an MBE/WBE, the cost of those supplies, materials, or equipment shall be counted toward the goals as follows:
  - (1) If the supplies, materials, or equipment are obtained from an MBE/WBE that is a Manufacturer or Regular Dealer, 100 percent of the payment for the supplies, materials, or equipment shall be counted toward the goals.
  - (2) If the supplies, materials, or equipment are obtained from an MBE/WBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the goals. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the goals if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.
- (C) When an MBE/WBE subcontractor listed on the MBE/WBE Compliance Plan subcontracts part of the work of its contract to another Firm, the value of that second-level subcontracted work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. Please see Section VI for an explanation of how to count the value of second-level subcontractors' work.
- (D) A Firm owned by a minority woman may be certified as both an MBE and a WBE (dual certified). On a single contract, the value of the work performed by a dual certified subcontractor may not be counted toward both the MBE and the WBE goals. The Proposer must decide whether to designate the dual certified subcontractor as an MBE or a WBE in the MBE/WBE Compliance Plan for the purpose of meeting the goals set for that contract. That designation may not be changed for the duration of the contract.
- (E) When an MBE/WBE performs as a participant in a certified Joint Venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the MBE/WBE performs with its own forces and for which it is at risk shall be counted towards the project goals. For more specific information regarding requirements and evaluations of certified MBE/WBE Joint Ventures, please see the City's MBE/WBE Procurement Program Rules or contact SMBR's Certification Division.
- (F) Only expenditures to an MBE/WBE contractor that is performing a Commercially Useful Function shall

be counted toward the project goals. If SMBR makes an initial determination that an MBE/WBE is not performing a Commercially Useful Function given the type of work involved and normal industry practices, the MBE/WBE may present evidence to rebut this presumption.

- (G) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date to submit the MBE/WBE Compliance Plan as specified in the City's solicitation documents. A Firm that is certified as an MBE/WBE at the time that the MBE/WBE Compliance Plan is filed may cease to be a certified Firm before the contract is completed. Only the value of the work performed by such a Firm while it is certified may be counted toward the project goals.

## **Section V Disclosure of Non-Certified Subcontractors**

Please list all known non-certified subcontractors, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Proposer will not use any non-certified Firms, please write "N/A" in the first box on this page.

The scopes of work indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If Proposer did not meet the project goals, Proposer must explain in the space provided why MBEs/WBEs were not used as subcontractors and ***submit documentation for the stated reason if applicable***. If Proposer did meet the project goals, please indicate "Goals Met" in the space provided.

## **Section VII Disclosure of Second-Level Subcontractors**

Please complete this section if Proposer knows that one or more of Proposer's subcontractors will subcontract part of the work of their contracts to second-level subcontractors. In the last line of each entry box, please write the name of the first-level subcontractor that will be subcontracting work to the second-level subcontractor. Identify second-level subcontractors by the legal name under which they will be registered to do business with the City. The first-level subcontractor should be listed in Section IV or Section V. If Proposer is not aware of any second-level subcontractors, please write "N/A" in the first box on this page.

As discussed in Section IV above, when an MBE/WBE subcontractor subcontracts part of the work of its contract to another Firm, the value of that second-level subcontractor work may not be counted toward the goals based on the initial subcontractor's MBE/WBE certification. The value of the second-level subcontractor work may be counted toward the project goals only based on the second-level subcontractor's own MBE/WBE certification, if any. Work that an MBE/WBE subcontracts to a non-certified firm does not count toward the goals. Work that an MBE/WBE subcontractor contracts to another certified firm shall not be counted twice towards the goal.

## **Section VII MBE/WBE Compliance Plan Checklist**

Please complete the *MBE/WBE Compliance Plan Checklist* with the information requested if the stated project goal(s) are not met.

## **GOOD FAITH EFFORTS INSTRUCTIONS**

*(See Appendices B and D)*

The Proposer has a responsibility to make a portion of the work available to MBE/WBE subcontractors so as to facilitate meeting the goals or subgoals. If the Proposer cannot achieve the goals or subgoals, documentation of the Proposer's Good Faith Efforts to achieve the goals or subgoals must be submitted at the same time as the MBE/WBE Compliance Plan. The SMBR Director will review the documentation provided and determine if the Proposer made sufficient Good Faith Efforts. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Proposer's failure to meet the goals and subgoals, as long as such costs are reasonable. However, a Proposer is not required to accept a higher quote from a subcontractor in order to meet a goal or subgoal.

### **Contacting Potential MBE/WBE Subcontractors**

The City has determined the scopes of work for this project and provided an Availability List of all the MBE and WBE firms certified to perform those scopes. The *Availability List* (Appendix D) is included with the solicitation documents and has two sections: *Vendors Within the Significant Local Business Presence (SLBP) Area* and *Vendors Outside the Significant Local Business Presence (SLBP) Area*. As part of Good Faith Efforts, Proposers **must** contact **all** firms listed in the *Vendors Within the SLBP Area* section. Please note that every firm on the Availability List – outside the SLBP – is City-certified as an MBE or WBE for purposes of meeting the project goals, and Proposers are encouraged to contact all the firms. If a Proposer identifies an additional scope of work for this project not identified in the solicitation, the Proposer must request from SMBR an Availability List for that scope of work and contact all firms, if any, on such list. The SMBR Director determines whether the Proposer has made sufficient Good Faith Efforts if goals or subgoals are not met.

**The City neither warrants the capacity or availability of any Firm, nor does the City guarantee the performance of any Firm indicated on the availability list.**

The availability list is sorted in numerical sequence by National Institute of Governmental Purchasing (NIGP) Commodity Code. It includes all certified MBE/WBE vendors for the scopes of work identified by the City as being potentially applicable to this project. However, the availability list is not a comprehensive identification of all areas of potential subcontracting opportunities. If a Proposer identifies one or more work areas that are appropriate subcontracting opportunities that not included on the availability list, the Proposer shall contact SMBR to request the availability list for MBE and WBE Firms in those areas. Requests for supplemental availability lists will be evaluated as a part of the Proposer's Good Faith Efforts to meet the goals.

If the Proposer believes any of the work areas on the availability list are not applicable to the project's scope of work or if the Proposer believes that the lists are inaccurate, the Proposer shall notify the authorized contact person of the concern immediately and prior to submission of the response to the solicitation. All Proposers will be notified in writing of any inaccuracy by addendum to the solicitation. Concerns about a particular MBEs/WBE's certification status may be addressed to SMBR at [SMBRComplianceDocuments@austintexas.gov](mailto:SMBRComplianceDocuments@austintexas.gov). If the Proposer wants to use a certified subcontractor that does not appear on this list, Proposer may request from SMBR or visit [www.austintexas.gov/open\\_solicitations](http://www.austintexas.gov/open_solicitations) for proof of certification and the specific work areas for which the subcontractor has been certified.

Appendix B provides a format for collecting required information from the subcontractors on the *Availability List*. The information must be obtained at least seven (7) business days prior to the submission of the *MBE/WBE Compliance Plan*; alternate formats may be acceptable as long as they gather the same required information. Included with the solicitation documents is an alphabetized list containing the names and addresses of the MBE/WBE Firms listed on the Appendix D. This list is in label format and is designed to facilitate the printing of mailing labels.

The following codes are used on the availability lists:

F	Female	M	Male
AA/B	African American	H	Hispanic
A/NA	Asian/Native American	W/C	Caucasian
LOC	A firm's two-digit location code (e.g., SL or TX)	AU	Austin
SL	Significant Local Business Presence (SLBP)	TX	Outside SLBP
MBE	A firm certified as a Minority-owned Business Enterprise	WBE	A firm certified as a Woman-owned Business Enterprise
MWB	A firm certified as both a Minority-owned & Woman-owned Business Enterprise	WMB	A firm certified as both a Woman-owned & Minority-owned Business Enterprise
MWDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise	WMDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise

### Good Faith Efforts Review

If goals are not met, SMBR will examine the *MBE/WBE Compliance Plan* and the Good Faith Efforts documentation submitted with the *MBE/WBE Compliance Plan* to ensure that the Proposer made Good Faith Efforts to meet the project goals or subgoals. In determining whether the Proposer has made Good Faith Efforts, SMBR will consider, at a minimum, the Proposer's efforts to do the following:

- (A) Solicit certified MBE/WBE subcontractors with a Significant Local Business Presence (SLBP) and request a response from those interested subcontractors who believe they have the capability to perform the work of the contract through at least two reasonable, available, and verifiable means. The Proposer must solicit this interest more than seven (7) business days prior to submission of the *MBE/WBE Compliance Plan* to allow sufficient time for the MBEs or WBEs to respond. (The date bids/proposals are due to the City should not be included in the seven day solicitation criteria). The Proposer must state a specific and verifiable reason for not contacting each certified Firm with a significant local business presence.
- (B) Provide interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a proposal.
- (C) Negotiate in good faith with interested MBEs/WBEs that have submitted bids/proposals to the Proposer. An MBE/WBE that has submitted a bid to a Proposer but has not been contacted within five (5) business days of submission of the bid may contact SMBR to request a meeting with the Proposer. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work. Bid shopping is prohibited.
- (D) Select portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE/WBE goals or subgoals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the Proposer might otherwise prefer to perform these work items with its own forces.
- (E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via

electronic/social media).

- (F) Use the services of available community organizations; minority persons/women consultants' or groups in the applicable field for the type of work described in this solicitation; local, state, and federal minority persons/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs.
- (G) Seek guidance from SMBR on any questions regarding compliance with this section.

The following factors may also be considered by SMBR in determining compliance through good faith efforts; however, they are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive:

- (A) Whether the Proposer made efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or consultant.
- (B) Whether the Proposer made efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

In assessing minimum good faith efforts, SMBR may consider whether the Proposer sought assistance from SMBR on any questions related to compliance with this section. In addition, SMBR may also consider the performance of other Proposers successfully meeting the goals.

The ability or desire of a Proposer to perform the work of a contract with its own organization does not relieve the Proposer of the responsibility to make Good Faith Efforts.

Proposers may reject MBE/WBEs as unqualified only following thorough investigation of their capabilities. The MBE/WBE's membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Proposer's efforts to meet the project goals or subgoals.

**At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):**

- Fax logs, emails, and/or copies of documents sent to firms within the SLBP area
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media
- Other communications regarding contacts with trade associations and Chambers of Commerce

**The following additional Good Faith Efforts factors may also be considered:**

- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance (as required by City or Consultant)
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials,

or services

- Copies of all proposals received in response to Proposer contacting other Firms

## **POST-AWARD INSTRUCTIONS** **(See Appendix C)**

### **Confirmation Letters**

All Bidders are required to include copies of the confirmation letters received from subcontractors, confirming the Subcontractors' willingness to provide services should the contract be awarded.

Changes to the *MBE/WBE Compliance Plan* including additions, deletions, contract changes, or substitutions of subcontractors are permitted only after contract execution and only with prior written approval of SMBR. Request for changes to the *MBE/WBE Compliance Plan* must be submitted on the Request for Change of *MBE/WBE Compliance Plan* Form for all levels of subcontracting and must be approved by the SMBR Director prior to adding, deleting, changing or substituting any subcontractor.

### **Post-Award Monitoring**

The City will monitor post-award compliance information regarding the use of certified MBE/WBE Firm(s) listed on the *MBE/WBE Compliance Plan*. The Bidder will be required to submit post award reports detailing the utilization of all subcontractors. The reports and other information regarding post-award compliance will be discussed with the successful Bidder. The following information on Payment Verification, Change Order/Contract Amendments, and Progressive Sanctions provides an overview of some of the post-award monitoring process.

- **Payment Verification**

Bidders are advised that the contract resulting from this solicitation includes a subcontractor payments clause. This clause requires all subcontractors to be paid within ten (10) calendar days from the date that the Bidder has been paid by the City for invoices submitted by subcontractors.

The Bidder shall submit a *Subcontractor/Supplier Awards and Expenditures Report* to the project manager and/or contract administrator at the time specified by the managing department. The report shall be in the format required by the City and shall include all awards and payments to subcontractors for goods and services provided under the contract during the previous month. This report may be used by the City to verify utilization of and payment to MBEs and WBEs.

The Bidder and/or any subcontractor whose subcontracts are being counted toward the MBE/WBE requirements shall allow the City access to records relating to the contract, including but not limited to, subcontracts, payroll records, tax information, and accounting records, for the purpose of determining whether the MBEs/WBEs are performing the scheduled subcontract work.

In determining achievement of MBE/WBE goals, the participation of an MBE/WBE subcontractor shall not be counted until the amount being counted toward the goal has been paid.

- **Change Order/Contract Amendments**

The goals on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project. The Bidder is required to make Good Faith Efforts to obtain MBE/WBE participation for additional scopes of work. Change orders that do not alter the type of trades originally required to

accomplish the project may be undertaken using the subcontractors already under contract to the Bidder. Project managers will have automatic SMBR approval to authorize any change order that **increases** the contract amount for an **existing** certified subcontractor and is **within** the existing scope being performed by that subcontractor.

▪ **Progressive Sanctions**

The successful Bidder's MBE/WBE Compliance Plan will be incorporated into the resulting contract with the City and shall be considered part of the consultant's performance requirements. Progressive sanctions may be imposed for failure to comply with Chapter 2-9A of the City Code, including:

- Providing false or misleading information in Good Faith Efforts documentation, post award compliance, or other Program operations;
- Substituting Subcontractors without first receiving approval for such substitutions, which may include the addition of an unapproved Subcontractor and failure to use a Subcontractor listed in the approved MBE/WBE Compliance Plan ; and
- Failure to comply with the approved MBE/WBE Compliance Plan without an approved Request for Change, an approved Change Order, or other approved change to the Contract.

Please refer to Section 2-9A-25 of the City Code and SMBR Rule 11.5 for additional information.

**MBE/WBE COMPLIANCE PLAN**

*All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.*

The Bidder/Respondent by submitting and signing this solicitation's 0300 form, understand and agree that the MBE/WBE Compliance Plan submitted as a part of the bid/proposal shall become a part of the contract with the City of Austin. The Bidder/Respondent further understand that the City of Austin's Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance) and the Small and Minority Business Resources Department (SMBR) Rules shall apply.

**Section I — Project Identification and Goals**

<b>Project Name</b>	Dougherty Arts Center Facility Replacement-CMR
<b>Solicitation Number</b>	RFQS 6100 CLMA037

**Project Goals or Subgoals**

Combined MBE/WBE	- %
MBE	- %
African American	3.59 %
Hispanic	4.65 %
Asian/Native American	2.73 %
WBE	5.11 %

**Section II — Bidder Company Information**

Company Name	
Address	
City, State Zip	
Phone	
Fax	E-Mail
Name of Contact Person	
Is your company registered on Vendor Connection?	Yes <input type="checkbox"/> <i>If yes, provide Vendor Code</i> _____ No <input type="checkbox"/> All vendors; Subconsultants and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at <a href="https://www.austintexas.gov/financeonline/finance/index.cfm">https://www.austintexas.gov/financeonline/finance/index.cfm</a>
Is your company COA M/WBE certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> (If yes, please indicate type below) 1. MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE <input type="checkbox"/> Joint Venture <input type="checkbox"/> 2. AA <input type="checkbox"/> H <input type="checkbox"/> A/N <input type="checkbox"/> WBE <input type="checkbox"/>

**City of Austin SMBR Use Only**

<i>I have reviewed this Compliance Plan and found that the Bidder <b>HAS</b> <input type="checkbox"/> <b>HAS NOT</b> <input type="checkbox"/> complied as per the City Code Chapter 2-9A through GFE.</i>	
Reviewing Counselor _____	Date _____
<i>I have reviewed this Compliance Plan and have found the Bidder <b>COMPLIANT</b> <input type="checkbox"/> <b>NON-COMPLIANT</b> <input type="checkbox"/></i>	
Director /Assistant Director _____	Date _____

**Section III — MBE/WBE STATEMENT OF RESPONSIBILITY**

**STATEMENT OF RESPONSIBILITY**

I understand I am responding to an Alternative Delivery Method-Construction Manager at Risk solicitation. I understand and affirm I have filled out this Compliance Plan in accordance with applicable City Code and Program Rule requirements and must comply with the MBE/WBE Program in order to be considered for selection of this solicitation. If chosen for this Solicitation, compliance with the City’s MBE/WBE Procurement Program ordinances and rules is required. The City has determined that subcontracting opportunities will arise for Construction Phase Services of this project, however the specific scopes of work and magnitude of the scopes of work cannot be determined until the design for the project has been completed. When the design documents have been substantially completed, the City will establish appropriate MBE/WBE goals, and the Construction Manager under contract shall submit a MBE/WBE Compliance Plan meeting the goals or documentation detailing their Good Faith Efforts to meet the established MBE/WBE goal with the Guaranteed Maximum Price Proposals. I agree to contact SMBR at [smbrcompliancedocuments@austintexas.gov](mailto:smbrcompliancedocuments@austintexas.gov) in order to facilitate this process. I agree to meet the solicitation goals specified in the chart above utilizing the firms listed on the Compliance Plan as scopes of work for the pre-construction phase of this project.

This signed Statement of Responsibility is my commitment to the requirements of the MBE/WBE Procurement Program which will become a part of my contract with the City of Austin, if selected.

**I understand that I am responding to an Alternative Delivery Method-Construction Manager at Risk Solicitation. If chosen for this Solicitation, the City of Austin will require me to comply with the City’s MBE/WBE Procurement Program, and this signed Statement of Responsibility is my commitment to the requirements of the MBE/WBE Procurement Program which are a part of my contract with the City of Austin.**

\_\_\_\_\_ **Authorized Representative (Print or Typed)**

\_\_\_\_\_ **Company Title**

\_\_\_\_\_ **Authorized Representative (Signature)**

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

**Section IV — Disclosure of MBE and WBE Subcontractors**  
(Duplicate as Needed)

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
- Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
- Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

<b>Name of MBE/WBE Certified Firm</b>		
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE   Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%

<b>Name of MBE/WBE Certified Firm</b>		
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE   Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%

<b>Name of MBE/WBE Certified Firm</b>		
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE   Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%

<b>Name of MBE/WBE Certified Firm</b>		
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE   Gender/ Ethnicity:	
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%

**Section V — Disclosure of Non-Certified Subcontractors**  
(Duplicate as Needed)

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

**Are Goals Met?**      Yes  No  **If no, state reason(s) below and attach documentation:**

<b>Name of Non-Certified Subcontractor</b>		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%
Reason Certified Firm not used		
<b>Name of Non-Certified Subcontractor</b>		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%
Reason Certified Firm not used		
<b>Name of Non-Certified Subcontractor</b>		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%
Reason Certified Firm not used		
<b>Name of Non-Certified Subcontractor</b>		
Vendor Code		
Address/ City / State / Zip		
Contact Person & Phone #		
Fax & Email Address		
Commodity Codes		
Commodity Codes Descriptions		
Amount of Subcontract & Percentage	\$	%
Reason Certified Firm not used		

**Section VI — Disclosure of Second-Level Subcontractors**  
(Duplicate as Needed)

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

<b>Name of Second-Level Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract & Percentage	\$ _____ %
First-Level Subcontractor	
<b>Name of Second-Level Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract & Percentage	\$ _____ %
First-Level Subcontractor	
<b>Name of Second-Level Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract & Percentage	\$ _____ %
First-Level Subcontractor	
<b>Name of Second-Level Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract & Percentage	\$ _____ %
First-Level Subcontractor	

**Section VII — Disclosure of Primary and Alternate Trucking Subcontractors**  
(Duplicate as Needed)

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Primary and Alternate Trucking Subcontractors as registered with the City of Austin.

<b>Primary Trucking Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person	Phone #:
Commodity Codes	
Commodity Codes Descriptions	
Amount of Subcontract & Percentage	\$ _____ %

<b>Alternate Trucking Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person	Phone #:
Commodity Codes	
Commodity Codes Descriptions	

<b>Alternate Trucking Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person	Phone #:
Commodity Codes	
Commodity Codes Descriptions	

<b>Alternate Trucking Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person	Phone #:
Commodity Codes	
Commodity Codes Descriptions	

<b>Alternate Trucking Subcontractor</b>	
City of Austin Certified (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person	Phone #:
Commodity Codes	
Commodity Codes Descriptions	

**Section VIII — MBE/WBE Compliance Plan Check List**

**Is the stated project goal of the solicitation met?**

Yes  No

*(If no, complete and submit Section VIII Compliance Plan Check List)*

If the goals or subgoals were not achieved, all questions in Section VIII **must** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE Compliance Plan.** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
<ul style="list-style-type: none"> <li>• Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan</li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters</li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Copy of advertisements placed in local publication</li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Copy of notices sent to Minority and Women organizations</li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Documentation that demonstrates additional GFEs:                             <ul style="list-style-type: none"> <li>○ Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor</li> <li>○ Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services</li> <li>○ Efforts made to reach agreements with the MBE/WBEs who responded to Bidder’s written notice</li> </ul> </li> </ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Were additional elements of work identified to achieve the goals or subgoals? Yes  No

If yes, please explain: \_\_\_\_\_

Was SMBR contacted for assistance? Yes  No

If yes, complete following:

Contact Person: \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Summary of Request: \_\_\_\_\_

Were Minority or Women organizations contacted for additional assistance? Yes  No

If yes, complete following:

Organization(s): \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Summary of Request \_\_\_\_\_

**LETTER TO POTENTIAL SUBCONTRACTORS**

\_\_\_\_\_ is soliciting Minority- and Women-Owned Business Enterprise participation for the following City of Austin project. Solicitation documents are available at One Texas Center, 505 Barton Springs Road, 10<sup>th</sup> Fl, STE/ 1045 C-Congress Room or [www.austintexas.gov/open\\_solicitations](http://www.austintexas.gov/open_solicitations)

Solicitation Name: \_\_\_\_\_  
 Solicitation Number: \_\_\_\_\_  
 Location of Pre-bid Conference (if any) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Response Due Date and Time: \_\_\_\_\_

**This Project Includes the Following Scopes of Service:**

- |   |   |
|---|---|
| <input type="checkbox"/> Asbestos Abatement           | <input type="checkbox"/> HVAC                           |
| <input type="checkbox"/> Carpentry                    | <input type="checkbox"/> Insulation                     |
| <input type="checkbox"/> Carpeting                    | <input type="checkbox"/> Lab and Field Testing Services |
| <input type="checkbox"/> Concrete                     | <input type="checkbox"/> Landscaping                    |
| <input type="checkbox"/> Demolition Services          | <input type="checkbox"/> Masonry                        |
| <input type="checkbox"/> Doors and Frames             | <input type="checkbox"/> Millwork                       |
| <input type="checkbox"/> Drilling                     | <input type="checkbox"/> Painting                       |
| <input type="checkbox"/> Drywall                      | <input type="checkbox"/> Paving and Resurfacing         |
| <input type="checkbox"/> Electrical                   | <input type="checkbox"/> Plumbing                       |
| <input type="checkbox"/> Excavation Services          | <input type="checkbox"/> Roofing                        |
| <input type="checkbox"/> Fabricated Steel             | <input type="checkbox"/> Stone                          |
| <input type="checkbox"/> Flooring                     | <input type="checkbox"/> Tile                           |
| <input type="checkbox"/> Glazing Services             | <input type="checkbox"/> Weather and Waterproofing      |
| <input type="checkbox"/> Hardware                     | <input type="checkbox"/> Welding                        |
| <input type="checkbox"/> Heavy Construction Equipment | <input type="checkbox"/> Windows                        |
| <input type="checkbox"/> Other _____                  | <input type="checkbox"/> Other _____                    |

Contact our office for detailed information on the scopes of services to be subcontracted and the relevant terms and conditions of the contract.

Contact: \_\_\_\_\_ at \_\_\_\_\_ or \_\_\_\_\_  
 (Name) (Telephone) (Fax)  
 \_\_\_\_\_  
 (Email)

All Responses MUST be received by: \_\_\_\_\_

**CONFIRMATION LETTER**

*(Printed on Subcontractor letterhead)*

Date

Contact Name  
Business Name  
Street Address  
City, State Zip

Re: Solicitation # \_\_\_\_\_

Dear (Contact Name):

This letter is to confirm that (insert Subcontractor name here) is pleased to provide (insert Prime Contractor name here) (insert service here) for the above-referenced project.

***We understand that we will be completing \_\_\_\_\_% of the work/services on this project.***

We look forward to working with you and the City of Austin should your team be awarded the project.

Sincerely,

(Insert signature)

Contact Name  
Title  
Business Name