

REQUEST FOR PROPOSALS

**METRO Gold Line Bus Rapid Transit Oriented
Development (BRTOD) Plans**



Issue Date: February 10, 2017

Proposals Due: March 17, 2017 by 2:00 PM CST

Issued By:

**Washington County Regional Railroad Authority on behalf of the Gateway
Corridor Commission**

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METRO Gold Line Bus Rapid Transit Oriented Development (BRTOD) Plans

1.1 Project Information

1.1.1 Project Purpose and Overview

This Request for Proposals (RFP) is issued by the Washington County Regional Railroad Authority (WCRRRA) on behalf of the Gateway Corridor Commission to solicit proposal for consultant services for transit-oriented development (TOD) planning surrounding ten Gateway Gold Line BRT stations throughout the Corridor. A Federal Transit Administration (FTA) TOD Pilot Program grant was received by the Metropolitan Council to complete this work. Below is the general description included in the grant application.

The overarching purpose of the Bus Rapid Transit Oriented Development (BRTOD) Plans is to coordinate planning and policy development along the entire Corridor to enhance opportunities for economic development and improve ridership.

The Gateway Corridor faces three types of challenges to TOD: (1) range in community type, (2) a need for a corridor-wide vision for TOD, and (3) range in planning and financial resources at the local level. The Corridor stations are located in a wide range of community types and real estate markets; from downtown Saint Paul, to a historic urban neighborhood, to a 1970s manufactured home park, to corporate campuses, and commercial areas ready for infill and re-development opportunities. TOD potential and type varies greatly by station. A larger planning effort needs to take place to relate community visions together to form a cohesive TOD plan.

This RFP outlines a scope of work that was created collaboratively with the partner cities, agencies, and counties in order to complete the BRTOD plans described.

1.1.2 Corridor Background

The METRO Gold Line (also known as the Gateway Corridor) Bus Rapid Transit (BRT) project is a planned, 9-mile dedicated transitway in Ramsey and Washington Counties in Minnesota. The purpose of the METRO Gold Line is to provide transit service to meet the existing and long-term needs for businesses and the traveling public within the project area.

The Gateway Corridor Commission, a joint-powers board of local elected officials and business and community leaders and financial members Ramsey and Washington County Regional Railroad Authorities, has led planning work to date. This work has included the Alternatives Analysis, selection of a Locally Preferred Alternative (LPA), and pre-Environmental Assessment work. The project is expected to enter Project Development in mid-2017 with the Metropolitan Council (Council) as the project lead. The Environmental Assessment (EA) will be completed during the Project Development phase. Even though the Gateway Corridor Commission has lead the project to date, the Council, Metro Transit, and MnDOT have also been active partners in the project. This partnership will continue through the BRTOD planning process.

More information about the METRO Gold Line can be found on the project website at www.thegatewaycorridor.com.

1.1.3 Expertise

The selected Consultant will be expected to have expertise in the following disciplines:

- Comprehensive Planning
- Creative Visualization Techniques
- Land Use Planning
- Local or Regional Experience in Housing Markets
- Local or Regional Experience in Real Estate Development
- Market Analysis
- Public Engagement
- Traffic Engineering
- Transit Oriented Development
- Transportation Planning
- Urban Design

1.1.4 Study Area

A map of the project, along with station locations, can be seen below in Figure 1. The BRTOD Plans will focus on stations between the Mounds Boulevard and Woodbury Theatre stations. The BRTOD plans will NOT focus on stations east of Mounds Boulevard.

The main study area will be the ½ mile walk-shed surrounding stations. Proposers should note that some stations could have study areas that expand beyond the ½ mile boundary. For example, market forces or bike distance can be well beyond the ½ mile boundary. FTA funding rules view the station area as a ½ mile radius and a bike shed as a three mile radius. The study areas for each station will be further refined with project partners, including the cities, as work begins. There are some tasks that will have study areas that link all the stations together as opposed to separate studies. Notes about the assumed study areas are in the task descriptions in Section 1.5. Exact station locations should also be assumed as set. This scope of work is focused on the areas outside of the station platform, not on the physical location of the station.

1.1.5 Project Oversight

This study is commissioned by the Gateway Corridor Commission (GCC), on behalf of the Metropolitan Council, and funded by a grant from the Federal Transit Administration (FTA)



as a Pilot Program for Transit-Oriented Development Planning. The Washington County Regional Railroad Authority (WCRRRA) is the fiscal agent and staff lead for the Commission. As such, WCRRRA staff will serve as project management for the study and shall serve as primary point of contact for contractual obligations, initial deliverable review and approval, management of contract, and external communications. Ramsey County Regional Railroad Authority (RCRRA) staff and city staff from Saint Paul, Maplewood, Landfall, Oakdale and

Woodbury will take lead roles in the development and execution of the overall process for the project including how engagement will occur with community members, how the BRTOD plans will relate to the existing city review structure, final review of deliverables, and final review of recommendations. More details can be found in Section 1.5.1.

1.1.6 Project Budget

The total project budget is \$1,300,000. FTA grant funds are \$1,000,000 with matching funds totaling \$300,000 committed by the Counties Transit Improvement Board (CTIB) (\$270,000) and a 10% local match to the CTIB grant equally made by RCRRRA and WCRRA GCC dues (\$30,000), and a \$50,000 in-kind funding commitment from the Metropolitan Council dedicated for completion of Task 2: Moving the Market to BRTOD. Proposer's scope of work and budget should not exceed \$1,300,000 and a 10 percent contingency should be included within the \$1,300,000 total budget.

1.1.7 Project Schedule

The WCRRA expects to complete the tasks described in Section 1.5 by late 2018. All tasks in the scope of work are intended to be completed in a reasonable amount of time in accordance to decision making abilities of all partners. The proposal review panel will be looking for the proposers thoughts on a realistic delivery timeline based on local decision making processes. Timing of the BRTOD plans is expected to coordinate with, but separate from, city comprehensive plans, which are anticipated to be completed in 2018.

1.2 Proposal Process, Content, and Submission Requirement

1.2.1 Proposed Timeline

Request for Proposals (RFP) Released	February 10, 2017
Pre-Proposal Conference*	February 24, 2017
Written Questions Received** (4:00 PM)	February 24, 2017
Response to Questions Released*** (4:00 PM)	March 2, 2017
Proposals Due (2:00 PM)	March 17, 2017
Oral Interviews (if necessary)	Week of March 27, 2017
Gateway Corridor Commission Approval	April 13, 2017
Washington County Contract Approval and NTP	April 18, 2017

*A Pre-Proposal Conference will be held at Washington County Public Works (11660 Myeron Road North, Stillwater, MN 55082) at 8:30 AM. Attendance at this conference is not mandatory.

**Submit all questions regarding this RFP only to Sara Allen via email (Sara.Allen@co.washington.mn.us). Proposers may be disqualified if any unsolicited contact related to this RFP is made with an employee or representative of WCRRA or the other partners along the Corridor during the proposal process.

***Written responses to all questions received on time will be posted at 4:00 PM on Washington County website at: <http://www.co.washington.mn.us/bids.aspx>.

No oral questions will be entertained prior to or after the deadline for written questions specified above, except at the pre-proposal conference.

1.3 Proposal Submission Process

1.3.1 Notice to Proposer

- Upon submission, all proposals become the property of WCRRA, which retains the right to use any concept or idea presented in any proposal submitted, whether or not that proposal is accepted.
- WCRRA expressly reserves the right to amend or withdraw this RFP at any time and to reject any or all proposals.
- WCRRA reserves the right to reject any and all proposals if such action is in the public interest.
- The WCRRA is not bound to accept the lowest cost proposal.
- Proposers are not to collude with other proposers and competitors or take any other action, which will restrict competition. Evidence of such activity will result in rejection of the proposal.
- The WCRRA reserves the right to negotiate contract terms contemporaneously and/or subsequently with any number of proposers as WCRRA deems to be in its best interest.
- Any exceptions to the requirements of this RFP must be included in the proposal submitted by the proposer. Identify the exceptions as a separate element of the proposal under the heading "Exceptions/Deviations." Failure to note exceptions to the Required Contract Terms and Conditions listed in Appendix A can lead to rejection of a proposal.
- The WCRRA reserves the right to include any clarifications/revisions to the RFP content in correlation with the question and response process.

1.3.2 Joint Offers

Where two or more consultants desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The WCRRA intends to contract with one single firm and not multiple firms doing business as a joint venture.

1.3.3 Proposal Format

Faxed proposals will not be accepted. Proposals received after the specified time and date in Section 1.2.1 shall not be considered. Proposals should be mailed or delivered to:

Washington County Public Works
Attn: Sara Allen
11660 Myeron Road North
Stillwater, MN 55082

The response must include 15 copies of the proposal and one digital pdf format. Please note the Disadvantaged Business Enterprise (DBE) forms in Appendix B must be submitted in a separate sealed envelope.

Proposals shall be prepared using 8 ½ x 11 double-sided paper with all text clear of bindings. Use of 11 x 17 fold-out sheets for large tables, charts, or diagrams is permissible, but should be limited. Index the proposal and sequentially number all pages throughout the section. Proposal narratives may not exceed 20 pages in length including the cover letter and Executive Summary. An appendix may be included that contains resumes and examples of relevant work experience. This appendix is not to exceed 10 pages. The proposal narrative and appendices should be bound together in a single submittal.

All proposal materials should be clearly marked “METRO Gold Line BRTOD Plans” as well as include the name and address of the proposer.

WCRRA shall not, in any event, be liable for any pre-contractual expenses incurred by the proposers in the preparation of their proposals. Proposers shall not include any such expenses as part of their proposals. Pre-contractual expenses are defined as expenses incurred by the Proposer in:

- Preparing its proposal in response to this RFP
- Submitting that proposal to WCRRA
- Negotiating with WCRRA any matter related to this proposal
- Any other expenses incurred by the proposer prior to the date of execution of the proposed contract

All information included in the submitted proposal will be classified in accordance with Section 13.591 of Minnesota statutes governing data practices.

1.3.4 Modifications to Scope of Work

WCRRA will consider modifications to the scope of work that will result in more effectively accomplishing the objectives of the study. Any modification submitted should be clearly marked as such within the proposal and cost estimate, with an explanation of its expected added benefit and impact on other tasks within the scope of work.

1.3.5 Valid Proposal

The proposal must contain the following information, presented in the order shown. Items 1-8 should be in the main body of the proposal, items 9-10 should be in an appendix, and item 11 should be in a separate envelope:

1. **Cover Letter** signed by the Project Manager
2. An **Executive Summary** of not more than three pages.
3. **Profile of Proposed Team** including the size and organizational structure, past history, and the status and outcome of any lawsuits brought against the proposer in the past five years.
4. **Description of Proposer’s Overall Approach relative to the below scope of work.**
5. **Base Work Plan** with a breakdown of project by tasks. For each task listed, identify:
 - Specific staff to be involved, roles, and responsibilities.
 - Schedule illustrating task relationships including anticipated meetings over the duration of the schedule.
6. **Budgets**
 - Hourly budget broken down by team member, by firm, and by task.
 - Current hourly rates for staff.
 - Current overhead rates for all team member firms.
 - A 10% contingency which shall be included in the Project Budget.
7. **Suggested Modifications to Base Work Plan**
 - Description of additional work tasks including description of benefits to the design process.
8. **Conflict of Interest**

The proposer shall list past or present involvement of all projects and relationships that create or appear to create a conflict of interest. The list should indicate the

name of the entity, the relationship, and a discussion of the conflict. WCRRA reserves the right to exclude proposers that have an organizational conflict of interest.

9. **Description of Proposal Team's Past Experience** providing similar services, including:
- Names, titles, and addresses of contact persons.
 - Description (history and experience) of proposal team member's role in each project.
 - Experience with similar type projects in scale and function.
 - Experience working with diverse stakeholders, particularly individuals with disabilities and seniors.

10. Project Personnel Profile

- Resumes of key project personnel, including prior projects of similar size and scope for which the personnel played the same or a similar role as proposed for the project and the status and outcome of any lawsuits brought against team member firms in the last five years.
- Organizational chart of the proposer's team identifying firm relationship and function of all key positions.
- Confirm that each team member will be fully engaged in the study as described for the duration of the contract.
- Description of the current assignment and time commitment to that assignment for all key personnel.

11. Disadvantaged Business Enterprise documentation as outlined in Appendix B.

1.4 Consultant Considerations

1.4.1 Project Status Communication

Communication notifying WCRRA of project status will be required by the contractor for the following:

- Status and amount expended on each active task
- Status and expected completion date of draft and final deliverable on each active task
- Necessary or proposed change in schedule or budget of any individual task or subtask after finalization of schedule and budget. Any changes in scope, project timelines, or both will need to be documented through a project memorandum with sign-off by the contractor and WCRRA staff.

1.4.2 Interagency Coordination

While the WCRRA retains the responsibility for overall coordination and contact with the interested agencies including by not limited to jurisdictions, local interest groups, transit providers, etc., it is recognized that the consultant may require certain information from these agencies in order to properly complete certain key tasks. All briefing of the agencies, request for information from the agencies, and contact with the agencies will be done with the full knowledge and active participation of the WCRRA.

1.4.3 Document Management and Control

The contractor is responsible for the management, maintenance, and delivery of all documents produced through the study. All documents produced in the development of

any deliverable shall be preserved in their native file formats, and made available to WCRRA staff. All intermediate draft versions of a deliverable will be preserved, with identification of the superseding version. All electronic and print versions of reports and documents produced by the contractor will become the property of WCRRA. All versions of all deliverables produced by the contractor shall be turned over to WCRRA throughout the contract period as noted above with a final digital version of all materials submitted at the conclusion of the contract.

1.5 Scope of Work

The following section outlines tasks to be completed, key responsibilities of the proposer and other project partners, and deliverables to be included in the study. The proposal work plan should demonstrate an understanding of study needs and propose an efficient study process, accounting for the inter-relationships among the task elements. The consultant proposal should aspire to provide the most effective process possible within the resources identified in this RFP. Creativity in delivering the outlined scope and in project teams is encouraged.

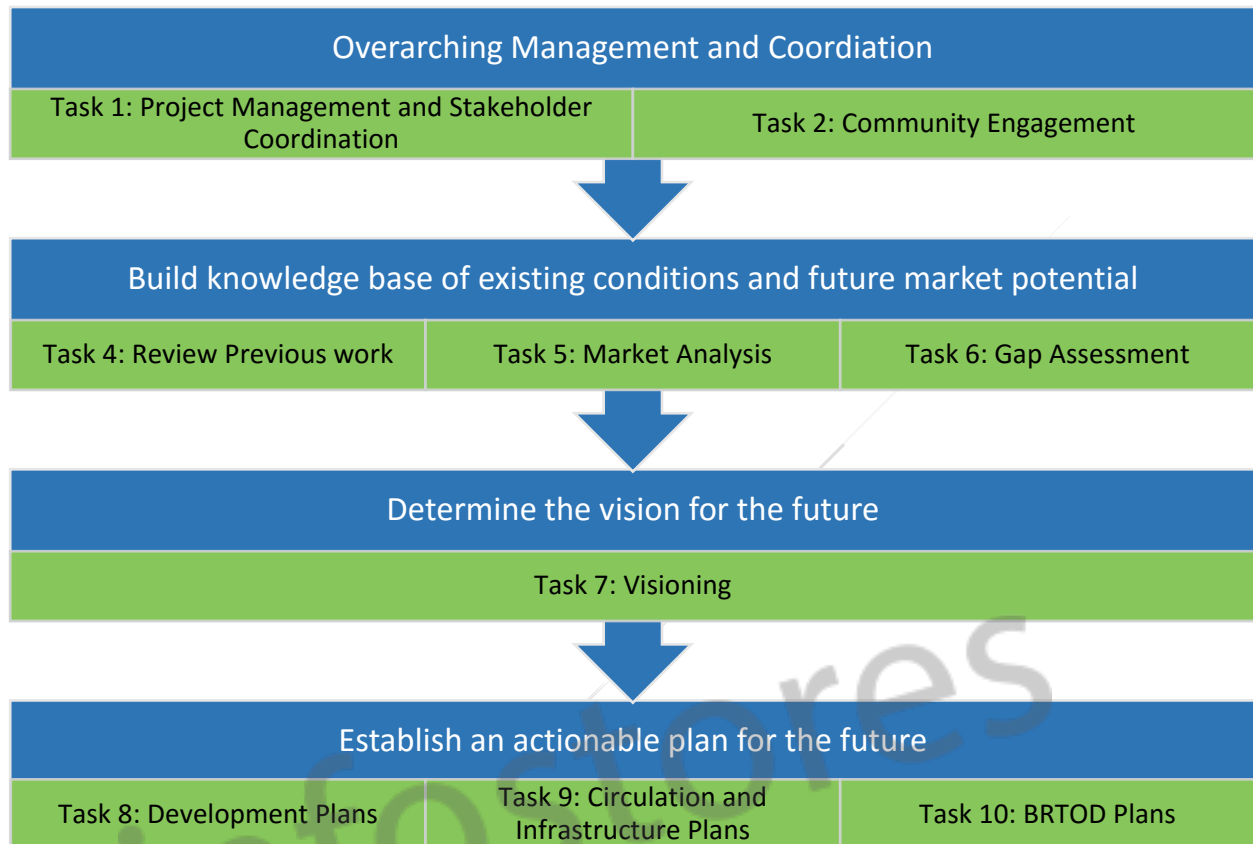
1.5.1 Overarching Considerations

The Gold Line BRTOD plans are intended to increase potential ridership base and enable station areas to achieve their transit-supportive, market-driven development potential. BRT provides the opportunities for each city to respond to a new market potential. The BRTOD plans will identify infrastructure investments and policy changes needed to achieve the larger vision of a vibrant and transit-supportive community. Successful plans will meet the needs of each station and city while maintaining the continuity of the Corridor as a whole. In essence, this is a small area planning process with a focus on the opportunities fixed-guideway transit can bring to a community.

Table 1 at the end of the scope of work provides a matrix regarding which tasks should be performed for each station. It should be noted that even though some tasks will be performed on each station, the level of intensity will be different. For example, the City of Saint Paul has adopted station plans for all their stations. New visions or development plans will not be created for those stations but the community needs to be reengaged based on the existing plans and new items from this scope of work. Another example is the level of effort for the Development Plans task. There are a wide range of development opportunities at each station, and some cities have done more work than others around station areas to prepare for development. The proposer should make themselves familiar with existing planning documents for each city in order to gauge the level of effort needed to complete the BRTOD Plans.

The scope of work below is intended to provide the basic outline for activities needed along the Corridor while fitting into each city's existing engagement, planning, and policy approval process. The selected proposer will have an opportunity to meet with the counties and cities after they are selected, but before the Notice to Proceed, in order to ensure expectations are met.

Below is a visual representation of how the tasks are interrelated.



1.5.2 Task 1: Project Management and Stakeholder Coordination

Action: This task will have two main sections. The first are the day-to-day project management activities and the second are to coordinate activities between city and agency stakeholders.

WCRRRA with assistance from the Metropolitan Council, the RCRRRA and the corridor cities, will be the project manager for the BRTOD Plans. Even though WCRRRA is the day-to-day project manager, city staff will have the main responsibility to ensure the proposer is meeting their city needs.

Within 14 days of the Notice to Proceed, the consultant's project manager will prepare a BRTOD effort project management plan (PMP) that will be reviewed and approved by WCRRRA. The PMP should specifically address quality assurance/quality control and document control/archiving. The consultant shall prepare monthly project progress reports and invoices, establish and maintain a project schedule with key milestones, a contact reporting system and an issues tracking system.

Main coordination efforts will be between the cities and counties along the corridor. There will be one committee guiding the work of this project but there will be a need for multiple smaller group meetings. A technical committee will be formed with the five cities' and two counties' planning and/or engineering staff. This group is anticipated to meet monthly. Other coordination meetings will also be needed to put emphasis on each cities' goals and needs. Technical committee staff will provide input and approval on all deliverables specific to their cities.

Using the Greenway Avenue Station as an example: the technical committee would meet monthly to talk about overall project deliverables, but because station area boundaries overlap both cities there is a need for Oakdale and Landfall to meet together to coordinate the specifics of this station, while also meeting separately to discuss how the project meets their specific city needs.

METRO Gold Line project office staff, MnDOT, and Metropolitan Council staff will be involved in coordination as deemed appropriate by WCRRA project management staff.

Unless otherwise specified by WCRRA, the proposal work plan should assume the consultant's project manager and key members of the consultant team will attend:

- Weekly progress meetings or conference calls with WCRRA
- Technical committee meetings that would be monthly or every other month with staff from the five cities and two counties
- Station area or city focus meetings on key issue areas as needed

Deliverables: The consultant shall prepare the project management plan and develop and maintain a schedule with key milestones, a contact reporting system and an issues tracking system. The consultant shall also attend, prepare agendas, appropriate presentation materials and meeting summaries for all meetings.

1.5.3 Task 2: Community Engagement

Action: Build on existing extensive public outreach and create an engagement plan, in close collaboration with Corridor cities, to inform all other tasks. A central goal of regional transitway development is to increase participation and decision-making by underserved populations. For the purpose of this RFP, underserved populations "include individuals in at least one of the following categories: low income, minority, elderly, limited English proficiency, or persons with disabilities" (U.S. Department of Transportation - Federal Highway Administration, April 2016). Therefore, 30 percent of the total budget is allocated to community engagement, with a focus on underserved populations. The consultant will develop a Stakeholder Involvement Plan (SIP) to ensure the viewpoints of the general public are incorporated into the resulting BRTOD Plans. Community engagement will look different around each station area and each city, and the SIP will be developed in collaboration with each city. The consultant should identify any unique, but reasonable and cost-effective, techniques (either traditional or online) to reach populations within the corridor who do not typically attend open house style events.

At a minimum, the consultant will:

- Prepare a draft and final report summarizing the public involvement process and strategies for each city.
- Track public comment and responses and provide to WCRRA throughout the project and upon project completion.
- Ensure all materials are web-ready, ADA accessible, and in plain-language.
- Prepare and provide logistical support, including associated fees, for all public meetings.
- Provide translation services when needed at public meetings and translation of some written materials for public consumption. Languages should include Spanish,

Somali, and Hmong but may include others, as determined based on recommendations from the SIP.

Deliverable: Draft and final versions of a public involvement plan for each city, draft and final versions of all public presentation materials, including but not limited to: newsletters, PowerPoint presentations and maps.

1.5.4 Task 3: Moving the Market to BRTOD

Action: The Met Council Community Development Department is providing locally-funded financial and staff support of BRTOD in the Corridor, and act as a resource for the region. The proposer would not be responsible for the actions in this task but should plan to send key personnel to meetings or workshops under this task. This task could include Metropolitan Council carrying out the following activities: (1) workshops for community stakeholders on BRTOD, including experiences from other regions, (2) compilation of BRTOD planning and implementation best practices, (3) library of local and national examples of TOD in smaller communities. Outcomes of this work should be included in the final product 1.5.10 Task 10: BRTOD Plans.

Deliverable: Proposer is not responsible for any work products in this task, but should assume time to attend any meetings related to this task.

1.5.5 Task 4: Review of Previous Station Planning, Local Plans, and Existing Conditions

Action: The existing conditions, both physically on the ground and in policy and planning documents, will be the baseline to determine a path toward BRTOD Plans. The Commission has completed base level market analysis at most of the stations along the corridor. The City of Saint Paul completed a Station Area Planning effort around the Mounds, Earl, Etna, White Bear, and Sun Ray Stations (final plans available on the city's website). Each city and county also has a wide range of local plans and policies that will impact BRTOD Plans. The proposer should become familiar with these documents before beginning the major tasks of this scope.

The Gold Line Health Impact Assessment should be included in consideration of previous work. The health outcomes established directly relate to the vision, development plans, and infrastructure needs of each station.

Deliverable: No formal previous work document will be required, but a summary of existing conditions, both physical and policy/planning, should be incorporated into the final deliverable in Task 10. The proposer should incorporate time into their budget and schedule to review all previous work with each city to further clarify previous studies. A follow-up meeting should also be scheduled to confirm the main takeaways of previous work that will be used as the starting point for future tasks.

1.5.6 Task 5: Market Analysis

Action: Complete the appropriate level of market analysis based on the existing and future conditions of each station, relative to the BRT project. The consultant should propose the appropriate level of analysis, and options for how to proceed with station area development plans should the envisioned development in Task 7 not be supported by the market analysis. The market analysis should consider the unique conditions of each city, county and the corridor as a whole. Some station areas have overlapping geographies with multiple cities. This factor should be considered in the market analysis task.

Deliverable: Market Analysis report providing information about the entire corridor and each individual station area. Cities must be given the opportunity to review and comment on resulting market analysis reports.

1.5.7 Task 6: Housing, Employment, and Education Gap Assessment

Action: A corridor-wide assessment of existing housing types, employment, and education institutions should be performed to identify gaps. The intent of this task is to identify where there is a mismatch, defined as a discrepancy between supply and demand, between housing, employment, and education for the existing and future demographics of the corridor. Methods on ways cities can proactively plan to close these gaps, with transit as an aid to access, should be included in the final recommendations for this project. Special attention should be paid to the accessibility gaps identified in the regional plan, *Thrive MSP 2040*, between racially concentrated areas of poverty and employment and education. This task should greatly inform Task 8 (Development Plans).

Deliverable: Housing, Employment, and Education Gap Assessment Report and associated maps.

1.5.8 Task 7: Visioning

Action: Develop goals and visions for station areas incorporating market realities, sustainable practices, existing neighborhood character, and TOD strategies for each station. Visions should help establish a common picture of a realistic future. Task 4 (Review of Previous Station Planning) and 5 (Market Analysis) data will help inform the appropriate level, intensity, and type of development for each station vision.

Agency and community involvement will establish a final vision for each station area.

The adopted visions for the Saint Paul stations should be utilized in place of any new activities.

Deliverable: Vision documents for each station, and digital renderings or hand drawn images of each station for public engagement use.

1.5.9 Task 8: Development Plans

Action: Build upon previous tasks and an evaluation of existing conditions to create a series of three sketch plans for each station to evaluate the range of conditions that are optimal for TOD. These plans will include land use and zoning changes (if needed), intensity and types of development supported by market analysis, and a clear connection to the station vision.

Attention must be paid to minimizing displacement for each community. Innovative financing tools such as value capture, public-private partnerships, TIF districts, joint development opportunities, and others should be evaluated for their potential to aid development. This task timeline must reflect intensive community outreach and coordination with county and city staff along the corridor.

Deliverable: Land use development planning report for each station area, as is appropriate along the Corridor (refer to Table 1). It is advised to approach these plans in coordination with city planning staff as “small area plans”, and the deliverables are to contain language consistent with each cities’ current planning and policy documentation.

1.5.10 Task 9: Circulation and Infrastructure Plans

Action: Perform an analysis of connections between modes at each station, including bus transfers, bicycling, walking, handicap accessibility needs, and driving. The analysis will consider how users navigate between the transitway and existing bus service. The analysis

will use pedestrian and bicycle audits to evaluate the environment, inventory of wayfinding signs, sidewalk conditions, and intersection crossings. Some areas, particularly in Saint Paul, will require a deeper look into the quality and maintenance needs for existing sidewalks, and identify difficult or unsafe pedestrian crossing points; in addition to identifying potential new bike and pedestrian connections.

The consultant will identify an infrastructure strategy that supports both existing development, and the short-term development identified in Task 5. (For example, could the sewer system handle a 10 story office building if it is a potential short-term development?) Infrastructure could include, but is not limited to: utilities, storm water, sewer, water, sidewalks, trails, roads, wayfinding, and lighting.

Deliverable: Circulation and Infrastructure Plans for each station. Maps and GIS files of Circulation and Infrastructure plans, including sidewalks, are to be provided.

1.5.11 Task 10: BRTOD Plans

This deliverable task will compile information generated in all previous tasks to prepare final BRTOD Plans for each city, focusing on (1) bridging the gap between current conditions and those anticipated for opening day of the Gold Line in 2023 (short-term timeframe), (2) the long-term (2040 Metropolitan Council projections can be defined as long-term timeframe) development potential of station areas, and (3) documented “lessons learned” from each of the tasks. The BRTOD Plans will provide a strategic plan to ensure station areas evolve into their highest and best use on opening day and beyond. This deliverable can be further defined as a “roadmap”, or a prioritization of improvements needed to get to opening day, and development into the future. It is up to each of the counties and cities to determine the official approval process for BRTOD Plan deliverables. The work product for the Saint Paul stations will be more limited, as it refers to and incorporates the adopted Gold Line Station Area Plans (2015).

A summary document from the process will also be created for performance measures to judge the outcomes for initial BRTOD Plans. It must include: the number of community members and underserved populations engaged and the amount of in-kind dollars leveraged. At a later date Washington County will check in on the number of communities who have adopted policy changes into their local documents, in order to evaluate plan effectiveness, and additional potential ridership gains from development proposed in BRTOD Plans.

Performance measures for each community to consider as part of their long-term goal tracking are also to be developed for each city. Measures should focus on outcomes related to job and education access, public safety, trip mode, residential and commercial displacement, increased ridership on the transit system, access to healthy food and healthcare, and housing options and affordability. Guidance on appropriate performance measures should be taken from the Environmental Protection Agency’s “Guide to Sustainable Transportation Performance Measures”.

Deliverable: One BRTOD Plan should be created for each city, with their corresponding stations, as well as references to station areas that fall within their borders but the physical station is outside their border. Each BRTOD Plan should be written in plain language, be ADA accessible for online versions, be graphically pleasing, and utilize language tailored to each city. One draft and final performance measure document will also be created.

1.6 Evaluation and Contract Award

1.6.1 Evaluation

Proposals submitted in response to this RFP will be evaluated and scored, in accordance with the criteria outlined below, by the Evaluation Committee established by WCRRA. The Evaluation Committee will be comprised of WCRRA staff, representatives from Saint Paul, Maplewood, Landfall, Oakdale, Woodbury, and Ramsey County and possibly other stakeholders as identified by the project team.

- WCRRA reserves the right to waive any minor irregularities in the proposal request process.
- WCRRA reserves the right to interview any or all proposers at its discretion.
- An A thru F scale will be used to create the final evaluation recommendation. An A-F system will be based on the following:
 - A: Exceeds reviewers expectations
 - B: Above reviewers expectations
 - C: Meets reviewers minimum expectations
 - D: Below reviewers expectations
 - F: Unable to perform work
- The proposals will be judged as follows:

Criteria	A thru F Grade
Overall understanding of project objectives and technical design of the proposal, work plan, and project approach.	A-F
Qualifications of the proposal team and key personnel.	A-F
The availability of personnel and other resources to perform the work within the specified project schedule.	A-F
Proposed public engagement approach and proposal team's experience in conducting successful stakeholder engagement for similar projects.	A-F
Creativity in the approach to the project.	A-F
Overall Grade	A-F

The evaluation team may conduct oral interviews with selected proposal teams if necessary. WCRRA will not be responsible for any costs incurred by a proposer in preparing for or making a presentation.

The WCRRA project manager will make a final recommendation based on the written proposals, the results of oral interviews, reference checks, and the recommendation of the Evaluation Committee. That recommendation will be presented to the Gateway Corridor Commission for approval. The final contract will be approved by the WCRRA.

1.6.2 Proposal Protest Procedure

A formal letter of protest must be received by WCRRA to the attention of Sara Allen, within ten (10) business days of the date of the award notification letter. The letter must state specifically the reason for the protest and include any documentation needed to substantiate the claim(s).

WCRRA will have ten (10) business days from the date of receipt of the protest letter in which to make a written response. WCRRA may extend the period for purposes of investigating the

protest, if it is warranted, by notifying the complainant in writing of their intentions within the above mentioned response time.

If the complainant, after receiving the final written response from the WCRRA, is not satisfied that the reason for protest has been sufficiently resolved, he/she may file a request for an appeal to be heard by the Washington County Board of Commissioners. Such a request must be written and received within the ten (10) business days from the date of the WCRRA response letter. The letter shall be made to the attention of Molly O'Rourke, Washington County Administrator, who will schedule the hearing for the next available Washington County Board meeting, and inform the complainant in writing of said date and time.

WCRRA will not receive any service or product described in the proposal document from the successful Proposal until the protest has been resolved.

Washington County's address is as follows.

Washington County
[attn.] Molly O'Rourke, Washington County Administrator
14949 62nd St. N.
Stillwater, MN 55082

1.6.3 Contract

The contract start and end dates will be determined during the negotiation process. The agreement to be executed between the successful proposer and WCRRA will include the Required Terms and Conditions, which have been included in the RFP as Appendix A, and the provisions of the successful proposer's proposal.

The agreement will include the following payment provisions:

- Payments will be made upon achievement of agreed-upon project milestones.
- If reimbursement of expenses is included, the WCRRA will only reimburse at actual cost for out of pocket expenses. If reimbursement for travel is permitted, all airfare shall first be authorized by the WCRRA and will be reimbursed at the lowest cost fare. Food, ground transportation, and lodging expenses necessitated by the Agreement will be reimbursed according to the Internal Revenue Service ("IRS") Regular Per Diem Rate Method or actual cost, whichever is less. Mileage will be reimbursed at the IRS rate in effect at the time of travel.

Appendix A

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APPENDIX A

REQUIRED CONTRACT TERMS AND CONDITIONS

A contract will be prepared by Washington County upon selection of a firm.

Appropriate language will be added to document the specific nature and scope of services, costs, responsibilities, and liabilities of each party. Additional areas of concern may be incorporated, subject to mutual agreement between parties. General conditions set forth in this section will be incorporated into the professional services agreement. The following provisions I through XVII must be included in any contract and are non-negotiable.

I. DOCUMENT FORMAT

All word processing documents shall be done and provided to the County in Microsoft Word format, and not converted from other formats. Data files shall be provided in Microsoft Excel format. CAD files shall be provided in AutoCAD or MicroStation format.

II. NONDISCRIMINATION

The Consultant agrees to comply with the nondiscrimination provision set forth in Minnesota Statute 181.59. The Consultant's failure to comply with section 181.59 may result in cancellation or termination of the agreement, and all money due or to become due under the contract may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

III. STANDARDS

The Consultant shall comply with all applicable Federal law, State statutes, Federal and State regulations, and local ordinances now in effect or adopted during the performance of the services herein until completion of said services.

Failure to meet the requirements of the above shall be a substantial breach of the agreement and will be cause for cancellation of this contract.

IV. POSSESSION OF FIREARMS ON COUNTY PREMISES

Unless specifically required by the terms of this contract, no provider of services pursuant to this contract, including but not limited to employees, agents or subcontractors of the (Vendor or Consultant, depending upon which term is used) shall carry or possess a firearm on county premises or while acting on behalf of Washington County pursuant to the terms of this agreement. Violation of this provision shall be considered a substantial breach of the Agreement; and, in addition to any other remedy available to the county under law or equity. Violation of this provision is grounds for immediate suspension or termination of this contract.

V. SUBCONTRACTING AND ASSIGNMENT

The Consultant shall not enter into any subcontract for performance of any services contemplated under this agreement; nor novate or assign any interest in the agreement, without the prior written approval of the county. Any assignment or novation may be made subject to such conditions and provisions as the county may impose. If the Consultant subcontracts the obligations under this agreement, the Consultant shall be responsible for the performance of all obligations by the subcontractors.

VI. SUBCONTRACTOR PROMPT PAYMENT

Pursuant to Minnesota Statute §471.425 subd. 4a., Consultant shall pay any subcontractors within 10 days of the Consultant's receipt of payment from the county for undisputed services provided by the subcontractor. The Consultant shall pay interest of 1½ percent per month, or any part of a month, to the subcontractor on any disputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime Consultant shall pay the actual penalty due to the subcontractor. The subcontractor shall have third party rights under this agreement to enforce this provision.

VII. DATA PRACTICES

All data collected, created, received, maintained, or disseminated for any purpose by the activities of the Consultant, because of this agreement shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (Act), as amended and the Rules implementing the Act now in force or as amended. The Consultant is subject to the requirements of the Act and Rules and must comply with those requirements as if it is a governmental entity. The remedies contained in section 13.08 of the Act shall apply to the Consultant.

VII. AUDITS, REPORTS, RECORDS AND MONITORING PROCEDURES/RECORDS AVAILABILITY & RETENTION

Pursuant to Minn. Stat. section 16C.05 subd. 5, the Consultant will:

Maintain records which reflect all revenues, costs incurred and services provided in the performance of this Agreement.

Agree that the County, the State Auditor, or legislative authority, or any of their duly authorized representatives at any time during normal business hours, and as often as they may deem reasonably necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices and involve transactions relating to this agreement. The Consultant agrees to maintain these records for a period of six (6) years from the date of the termination of this agreement.

VIII. JURISDICTION & VENUE

This contract, amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. All actions brought under this agreement shall be brought exclusively in Minnesota State Courts of competent jurisdiction with venue in Washington County.

IX. CONTRACTOR DEBARMENT, SUSPENSION AND RESPONSIBILITY CERTIFICATION

Federal Regulation 45 CFR 92.35 prohibits the county from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minnesota Statutes, Section 16C.03, subdivision 2, provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the county. Consultants may be suspended or debarred when it is determined through a duly authorized hearing process, that they have abused the public trust in a serious manner.

By signing this agreement, the Consultant certifies that it and its principals* and employees:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state, or local governmental department or agency; and
- B. Have not within a three year-period preceding this agreement: 1) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state, or local government) transaction or contract, 2) violated any federal or state antitrust statutes, or 3) committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
- C. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - 1) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state, or local government) transaction,
 - 2) violating any federal or state antitrust statutes, or
 - 3) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
- D. Are not aware of any information and possess no knowledge that any subcontractor(s), that will perform work pursuant to this agreement, are in violation of any of the certifications set forth above; and
- E. Shall immediately give written notice to the contract manager should the Consultant come under investigation for allegations of fraud or a criminal offense in connection with obtaining or performing a public (federal, state, or local government) transaction, violating any federal or state antitrust statute, or committing embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property.

*Principals, for the purpose of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary division or business segment, and similar positions).

X. INDEMNIFICATION

The Consultant agrees it will defend, indemnify and hold harmless the County, its officers and employees against any and all liability, loss, costs, damages, and expenses which the County, its officers, or employees may hereafter sustain, incur, or be required to pay arising out of the negligent or willful acts or omissions of the Consultant in the performance of this agreement.

XI. INSURANCE REQUIREMENTS

The Consultant agrees that in order to protect itself, as well as the County, under the indemnity provisions set forth above, it will at all times during the term of this Agreement, keep in force the following insurance protection in the limits specified:

- A. Commercial General Liability with contractual liability and Professional Liability coverage in the amount of the County's tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time.
- B. Automobile coverage in the amount of the County's tort liability limits set forth in Minnesota Statute 466.04 and as amended from time to time.
- C. Worker's Compensation in statutory amount. (if applicable)

Prior to the effective date of this Agreement, the Consultant will furnish the County with a current and valid proof of insurance certificate indicating insurance coverage in the amounts required by this agreement. This certificate of insurance shall be on file with the County throughout the term of the agreement. As a condition subsequent to this agreement, Consultant shall insure that the certificate of insurance provided to the County will at all times be current. The parties agree that failure by the Consultant to maintain a current certificate of insurance with the County shall be a substantial breach of the contract and payments on the contract shall be withheld by the County until a certificate of insurance showing current insurance coverage in amounts required by the contract is provided to the County.

Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days' notice thereof to the County.

XII. INDEPENDENT CONTRACTOR

It will be agreed that nothing within the contract is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties or as constituting the Consultant as the agent, representative, or employee of the County or the Public Works Department for any purpose or in any manner whatsoever. The Consultant is to be and shall remain an independent consultant with respect to all services performed under this agreement.

The Consultant will secure, at its own expense, all personnel required in performing services under the agreement. Any and all personnel of the Consultant or other persons, while engaged in the performance of any work or services required by the Consultant under this agreement shall have no contractual relationship with the County or the Public Works Department and shall not be considered employees of the County or Public Works Department.

XIII. MODIFICATIONS

Any material alteration, modification, or variation shall be reduced to writing as an amendment and signed by the parties. Any alterations, modifications, or variations deemed not to be material by agreement of the County and the Consultant shall not require written approval.

XIV. MERGER

It is understood and agreed that the entire agreement of the parties is contained here and that this contract supersedes all oral agreements and negotiations between the parties relating to this subject matter. All items referred to in this contract are incorporated or attached and deemed to be part of the contract.

XV. CANCELLATION

The County may cancel this Agreement at any time upon giving fifteen (15) days written notice sent to the Consultant at the address above.

XVI. SERVICES BEYOND THE SCOPE OF THIS CONTRACT

Any additional tasks added to this project must be by written amendment to this Contract signed by both parties.

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Appendix B

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21. DISADVANTAGED BUSINESS ENTERPRISE (DBE) SUBCONTRACTING POLICY AND PROCEDURE

A. POLICY

The Metropolitan Council recognizes its role as public policy makers in enacting policy that serve to eliminate the effects of illegal discrimination. The Council has previously approved several policies that clearly state its commitment to the prohibition of discrimination in employment and the provision of public services. This policy conveys the Council's commitment to create and support programs that result in the inclusion of women-owned, minority-owned and other small disadvantaged businesses in its procurement and contracting activities.

The Council will, in accordance with authority granted by federal regulations and state statute, act affirmatively to create a "level playing field" for woman-owned, minority-owned and other small disadvantaged business enterprises to achieve the goal of equal opportunity.

To help ensure equal opportunity, the Council will utilize small disadvantaged businesses in the procurement of goods and services, and the award of contracts. The Council will set inclusion goals on construction contracts and on contracts for consultant, professional, or technical services that feature subcontract opportunities. Where feasible, the Council will encourage its grant recipients to engage in efforts to solicit and include small disadvantaged businesses and to report to the Council the results of these efforts. The Council will set benchmarks to track and measure its efforts to include small disadvantaged businesses across its divisions.

B. DEFINITIONS

Disadvantaged Business Enterprise (DBE) means a for-profit small business concern which is at least 51% owned by one or more socially and economically disadvantaged individuals. In the case of any publicly-owned business, at least 51% of the stock must be owned by one or more socially and economically disadvantaged individuals; and the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small Business Concern (with respect to firms seeking to participate as DBEs in USDOT-assisted contracts) means a small business as defined pursuant to the Small Business Act (13 CFR 121).

Socially and Economically Disadvantaged Individuals (for purposes of USDOT-assisted projects) means any individual who is a citizen (or lawfully admitted permanent resident) of the United States, and who are:

- Women (regardless of race, ethnicity or origin); or
- Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans; or
- Individuals found to be socially and economically disadvantaged by the U.S. SBA pursuant to Section 8(a) of the Small Business Act.

The Council will make a rebuttable presumption that individuals in the above groups are socially and economically disadvantaged. The Council may, on a case-by-case basis, determine, or accept the determination by another USDOT recipient, that other individuals are socially and economically disadvantaged in accordance with 49 CFR 26, Subpart D.

MNUCP is the Minnesota formed Unified Certification Program, as mandated by USDOT, comprised of the following certifying agencies: City of Minneapolis, Metropolitan Airports Commission (MAC), Minnesota Department of Transportation (MNDOT), and Metropolitan Council. These agencies work together to certify DBE firms.

C. DBE PARTICIPATION GOAL

The DBE participation goal for this contract is 15%.

D. REQUIREMENT OF GOOD FAITH EFFORTS (GFE)

Proposers are advised that award of this proposal is conditioned on meeting the requirements of 49 CFR Section 26.53, requiring Proposers to make good faith efforts to meet the DBE participation goal specified in this document. Proposers are required to demonstrate good faith efforts to meet the goal by either:

- Documenting the participation of specific DBEs to meet the goal, **or**
- If the DBE participation goal is not met, documenting adequate good faith efforts taken to meet the goal.

This section includes requirements for Proposers as they pertain to DBE participation (at time of proposal, post-submittal, and pre-award). Attached to this RFP are Parts A, B, & C of the DBE Commitments & Good Faith Efforts Form.

- **Part A – Commitments**, must be submitted with the proposal by every proposer.
- **Part B – Good Faith Efforts**, must be submitted with the proposal if the DBE goal has not been met.
- **Part C – Letter of Intent**, must be submitted post-proposal submission by every Proposer as requested by the Council.

E. COUNTING DBE PARTICIPATION

In accordance with 49 CFR Section 26.55, the Council will utilize the following guidelines in determining the percentage of DBE participation that will be counted toward the overall DBE goal:

1. If a firm is not certified as a DBE in accordance with the standards of Subpart D of the regulations at the time of the execution of the contract, the firm's

participation toward any DBE goals will not be counted, except as provided in 49 CFR Section 26.87(i).

2. The dollar value of work performed under a contract with a firm after it has ceased to be certified will not be counted toward the overall goal.
3. The participation of a DBE subcontractor toward the Contractor's DBE achievements or the overall goal will not be counted until the amount being counted toward the goal has been paid to the DBE.
4. When a DBE participates in a contract, the value of the work actually performed will be counted as follows:
 - a. The entire amount of that portion of a contract (or other contract not covered by paragraph 49 CFR Part 26.55) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies, and equipment the DBE subcontractor purchases or leases from the Contractor or its affiliate).
 - b. The entire amount of fees or commissions charged by a DBE firm 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 USDOT-assisted contract, toward DBE goals, provided that the Council determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - c. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontract work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm will not count toward DBE goals.
5. When a DBE performs as a participant in a joint venture, the Council will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
6. The Council will count expenditures to a DBE subcontractor toward DBE goals only if the DBE is performing a commercially useful function on that contract:
 - a. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Council will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is

actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

- b. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which the funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Council will examine similar transactions, particularly those in which DBEs do not participate.
 - c. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Council will presume that it is not performing a commercially useful function.
 - d. When a DBE is presumed not to be performing a commercially useful function as provided in this program, the DBE may present evidence to rebut this presumption. The Council may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
 - e. The Council's decisions on matters of whether a DBE performs a commercially useful function are subject to review by the concerned operating administration (FTA), but not subject to an administrative appeal to USDOT.
7. DBE trucking companies must perform a commercially useful function in order to receive DBE credit for the trucking services they perform on a contract. To perform a commercially useful function, an DBE trucking company must:
- a. Satisfy the requirements listed in section F(1-4), and
 - b. Own and operate at least one fully licensed, insured, and operational truck used on its contract.
8. The Council will award DBE credit to DBE trucking companies providing trucking services that perform a commercially useful function as illustrated below:
- a. A DBE trucking company will receive 100% credit for each DBE truck and DBE independent truck operator working under the contract.
 - b. A DBE trucking company will receive 100% credit for trucking services and any related fees associated with removing materials from a job site.
 - c. A DBE trucking company will receive 100% credit for commission or broker fees on any portion of a contract that is completed by non-DBE independent truck operators.

For the purpose of this paragraph, “trucking services” means hauling of any material or supplies that the firm does not pay for, or intend to be counted as a regular dealer. A DBE firm providing trucking services as described above is not considered a regular dealer, and does not receive credit for the value of supplies transported. See section F(7) for information on how the Council counts DBE trucking activity when the DBE trucking company pays and provides independent transportation for bulk materials.

9. The Council will count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
 - a. The Council will count 100% of the cost of the materials or supplies toward DBE goals if the materials or supplies are obtained from a DBE manufacturer. For purposes of this paragraph, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described in the specifications.
 - b. The Council will count 60% of the cost of the materials or supplies toward DBE goals if the materials or supplies are purchased from a DBE regular dealer. For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold to or leased to the public in the usual course of business.
 - i. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - ii. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business as provided in 49 CFR Section 26.55(e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease and not on an ad hoc or contract-by-contract basis.
 - iii. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of 49 CFR Section 26.55(e)(2).
 - iv. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the Council will count the entire amount of 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, toward DBE goals, provided that the Council has determined the fees to be reasonable and not excessive as compared with fees customarily

allowed for similar services. The Council will not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

F. SUPPLYING / BROKERING OF SPECIALTY MATERIALS

1. Many Council contracts contain materials, equipment, or supplies which are manufactured to contract specifications, outsized, unique, or just not economically feasible to be routinely kept in stock. These “specialty materials”, which include but are not limited to items such as utility pipe, large electrical items, and rail sections, are typically shipped directly from a manufacturer to specific job sites based upon standard industry practice.
2. In accordance with 49 CFR 26.55 and USDOT’s published Q & A clarifications, the Council will rebuttably presume that these “specialty materials” purchased by a certified DBE Supplier are being supplied in a manner best described as that of a contract expeditor or broker. The amount of DBE “credit” participation that Proposers may count towards the overall DBE contract goal will be limited to the DBE Supplier’s commission and cost in transporting the materials, and not the cost of the materials themselves. The Council anticipates that standard commissions and transportation value amounts will range between 1-5% of the cost of materials.
3. The Proposer can rebut this presumption by demonstrating, prior to proposal due date, that the DBE supplier will perform a Commercially Useful Function (CUF) when supplying the specialty materials. The Proposer can demonstrate such CUF by establishing that the DBE Supplier:
 - a. Actively and independently participates in the bidding, sourcing, and estimating of the materials and supplies;
 - b. Maintains the items procured in stock or actively conducts business with items of the same nature;
 - c. Has the capability and ability to ensure that the transportation and storage of said specialty materials will be arranged and take place at the DBE’s owned or leased facilities;
 - d. Provides an added value to the transaction, such as selection variety, product alternates, logistical management; and
 - e. Has the ability to purchase directly from the manufacturers of the specialty item.
4. If a DBE Supplier firm overcomes the rebuttable presumption of acting as a contract broker or expeditor, and is recognized by the Council’s Office of Equal Opportunity (OEO) staff as performing a CUF then:

- a. The Proposer will need and receive written OEO staff confirmation of the DBE Supplier's designation prior to proposal due date; and
 - b. The Proposer can count the value of the DBE Supplier's supplied specialty materials towards the DBE goal at 60% supplier value.
- 5. A DBE supplier may be recognized as acting as a supplier and a contract broker /expediter if procuring different materials as part of the same contract. Any materials that the DBE supplier provides which meet the above CUF criteria will be counted at the supplier rate of 60%, while the materials supplied which do not meet the CUF criteria will be counted at the lower rate of 1-5%.
- 6. A DBE trucking company will be considered a regular dealer of bulk items and will receive 60% DBE credit of the cost of those bulk items if the DBE trucking company:
 - a. Pays for the bulk materials (e.x. sand, gravel, liquid asphalt), and
 - b. Owns and operates distribution equipment for the bulk items.
- 7. DBE trucking companies operating as regular dealers of bulk items must perform a commercially useful function in order to receive DBE credit for the regular dealer services they perform on a contract. To perform a commercially useful function, an DBE trucking company operating as a regular dealer must:
 - a. Be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals, and
 - b. Own and operate at least one fully licensed, insured, and operational truck used on its contract.

Any supplementing of a regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

G. DBE SUBMITTAL REQUIREMENTS

All proposals **MUST** include a properly completed **DBE Commitments & GFE form**. Failure to submit a properly completed **DBE Commitments & GFE form** with the proposal will be considered nonresponsive and will result in no further consideration by the Council.

1. Part A – Commitments

All DBE firms which are listed in Part A must, as of the date proposals are due, be: certified by the Council as a DBE; or certified by any other United States Department of Transportation (USDOT) recipient and then certified by the Council within 30 days of the execution of the contract; or included in the **MNUCP DBE Directory**. All of the firms in this listing shall be considered “currently certified” for the purposes of

proposal submittal. This listing is available from the Council and can also be found at the following website: www.MNUCP.org

- a. Must be completed by all Proposers.
 - b. The Proposer must list all DBE firms, if any, whose participation is proposed to be credited toward meeting the DBE goal and the following information regarding each such firm:
 - i. The name of each DBE subcontractor that the Proposer intends to credit toward the DBE goal.
 - ii. A description of the work to be performed or materials to be supplied by each DBE.
 - iii. The estimated dollar value of each DBE's participation in the contract. If this procurement is subject to the Brooks Act, then the estimated dollar value of DBE participation is not required.
 - iv. A description of how each DBE firm will participate in this contract. The DBE goal may be satisfied by a commitment to DBE participation in the contract as a prime contractor, joint venture partner, subcontractor, trucker or supplier.
 - v. The estimated percent of the total proposal price for each DBE.
 - c. The Proposer must complete and sign the Good Faith Efforts Certification.
2. Part B –Good Faith Efforts
- a. Must be completed by the Proposer if the information provided in Part A of the form indicates either:
 - i. Committed DBE participation is 0%, or
 - ii. Committed DBE participation is less than the DBE goal established above;
 - b. The Proposer must provide information regarding its good faith efforts to meet the DBE goal.
 - c. The Proposer must complete and sign the Good Faith Efforts Certification.

H. DBE POST SUBMITTAL REQUIREMENTS

Before the award of the proposal, the Council will notify all responsive Proposers that they are being considered for award. Each Proposer so notified must, within 7 days from receipt of the notice, submit the following:

1. Part C (Letter of Intent) - Must be completed by each DBE firm listed on Part A as being utilized for credit to meet the goal.

2. The Proposer must submit any clarifications or additional details requested by the Council regarding the good faith efforts information submitted with the proposal.
3. Failure to comply with a post-submittal requirement may result in no further consideration of the proposal by the Council.

I. GOOD FAITH EFFORTS DETERMINATION

In accordance with 49 CFR Section 26.53 and Appendix A thereto, the following guidelines will apply to a good faith efforts determination.

The Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of 49 CFR Part 26 which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

1. The Council's DBE Liaison Officer will determine whether a Proposer made sufficient good faith efforts to meet the goal in accordance with the guidelines set forth in 49 CFR Section 26.53, and Appendix A thereto. Compliance will be determined on a case-by-case basis, based on a review of documentation of the following types of activities:
 - a. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The Proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The Proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Proposer might otherwise prefer to perform these work items with its own forces.
 - c. Providing interested DBEs with adequate information about the scope of services and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - d. Negotiating in good faith with interested DBEs. The Proposer has the responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of information provided regarding the scope of services for the

work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

- e. A Proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for Proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, 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 are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
 - f. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejection or non-solicitation of proposals in the Proposer's efforts to meet the contract goal.
 - g. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required for this contract.
 - h. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
 - i. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal offices of minority/women business assistance; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
 - j. The performance of other Proposers in meeting the contract goal. For example, when a Proposer fails to meet the contract goal, but others meet it, the Council may reasonably raise the question of whether, with additional reasonable efforts; the Proposer could have met the goal. If the Proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other Proposers, the Council may view this, in conjunction with other factors, as evidence of the Proposer having made good faith efforts.
2. The Council's DBE Liaison Officer will determine whether a Proposer made sufficient good faith efforts to meet each goal. If the Council's DBE Liaison Officer determines that the Proposer has failed to meet the good faith efforts requirements of this program, it will, before contract award, provide the proposer an opportunity for administrative reconsideration. The proposer will have the opportunity to:

- a. Provide a written documentation or argument concerning the issue of whether the proposer met the goal or made adequate good faith efforts to do so; and
- b. Meet in person with the Council or its reconsideration official to discuss the issue of whether the proposer met the goal or made adequate good faith efforts to do so.

The Council will send the Proposer a written decision on its reconsideration, explaining the basis on which the determination was made whether it met the goal or made adequate good faith efforts to do so.

In accordance with 49 CFR Section 26.53, the result of the Council's reconsideration process is not subject to administrative appeal to USDOT or the Federal Transit Administration.

Determinations and reconsiderations regarding failure to meet DBE requirements for this contract are handled in accordance with the provisions of this section and are not subject to the protest procedures in **Attachment 2. Protests for Procurement \$25,000 and Over.**

J. REPORTING REQUIREMENTS

The awarded Contractor is required to enter monthly DBE invoice and payment amounts into the Council's online Contract Management System (CMS). The CMS can be found in at <http://dbecms.metc.state.mn.us/>

Upon award of a proposal, a representative from the Council's Office of Equal Opportunity (OEO) will assign the awarded Contractor a CMS user account and provide the Contractor a CMS User Manual detailing the following guidelines;

1. The required data for all DBE subcontractors to be used on the project, must be entered into CMS following Notice to Proceed.
2. All DBE billing, submitted during the reporting period, must be finalized and entered into the CMS prior to submission of Contractor's payment application.
3. If there is no DBE billing during the reporting period, the Contractor must send a notification email to the Council's Project Manager, and the OEO representative,

stating that there was no DBE invoices received during the reporting period. Notification must contain the payment application number, and reporting period.

4. Any changes to the DBE subcontractor list or their contract amounts must be reported through CMS on a monthly basis. Changes include:
 - a. DBE firms removed from the project;
 - b. DBE firms added to the project;
 - c. Increases/Reductions to DBE contract amounts;
 - d. Credit adjustments;
 - e. DBE Contact information.
5. All payments made to DBE firms, must be finalized and entered within 10 days of receipt of payment from the Council. DBE payments, and required data fields, must be entered into CMS.
6. Failure to comply with the provision of this section, may result in the Council finding the Contractor in noncompliance with the DBE provision of this contract and may result in Imposition of Administrative Sanctions as described in section 15.09 of the contract.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMMITMENTS FORM

PART A - Commitments

(Part A Must be submitted with each proposal - *If participation is 0% or less than the goal – PART B must also be completed)

Contract Number:	Project Name:
Proposing Firm:	

DBE Name (Legal business name used for certification)	Description of Work	DBE Proposal Amount	How will firm participate? <i>Prime; Subcontractor; Trucker or Supplier</i>	DBE credit amount (dollar value)	DBE credit <i>% of total proposal</i>
Use copies of this form if additional space is needed to list committed DBEs.				Total Dollar Value	Total DBE %

I certify that I have read the DBE requirements in this RFP. I further certify that the Proposer has made appropriate efforts to comply with the DBE requirements for this contract by making good faith efforts to meet the DBE goal specified in Section 21 of the Instructions for Preparation of Proposals. I am authorized on behalf of the Proposer to submit this certification to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Proposer Name: _____ Signature: _____ Date: _____

[Contract Number]

Attachment to Proposal Instruction DBE Commitments and Good Faith Efforts

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMMITMENTS & GOOD FAITH EFFORTS (GFE) FORM**

PART B – Good Faith Efforts

(Must be submitted if commitment is 0% or less than the goal)

A. See 21.I, Good Faith Efforts Determination, section of the Instructions for Preparation of Proposals for guidelines in applying Good Faith Efforts

B. THE FOLLOWING GOOD FAITH EFFORTS WERE TAKEN IN ORDER TO MEET THE DBE PARTICIPATION GOAL FOR THIS CONTRACT. Use additional sheets if necessary to supplement the responses and attach the additional sheets to this form:

(Note: the following is a list of types of actions which will be considered by the Council as a part of the Proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. In each case, examples of the types of activities contemplated by the described action are outlined for the Proposer's convenience and assistance. Providing the information given as examples will be useful in determining the Proposer's good faith efforts. However, completion of or failure to complete all the example activities will not necessarily result in either finding or not finding a lack of good faith efforts; and other activities not provided as examples may be used by the Proposer to demonstrate good faith efforts.)

1. Describe Proposer's efforts to include DBEs on solicitation lists and to solicit through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all DBEs who have the capability to perform the work of the project. (Include information indicating whether the solicitation of interest took place within sufficient time to allow the DBEs to respond to the solicitation and/or if Proposer took appropriate steps to follow up the initial solicitations.)
 - a. Did the Proposer take any of the following actions in order to assist Proposer in carrying out its solicitation of DBEs for participation in the project (check those that apply):
 - ☐ Proposer attended pre-proposal meeting to learn about project and DBE goals.
 - ☐ Proposer reviewed RFP document for DBE policy regarding the Council's expectation of Proposers regarding DBE participation.

- ☐ Proposer reviewed RFP document for DBE policy sections in order to understand the correct method of counting DBE participation.

- b. List advertising or other means that the Proposer used to solicit interest in having DBE subcontractors participate with the Proposer on this project:

Advertising or Other Means Used	How long before the deadline for DBEs to respond to the solicitation did this activity occur

- Describe what follow-up actions with DBEs were undertaken by the Proposer following the described solicitation activities:
- If no advertising or other means were used for the described purpose, explain why not:

- c. Did the Proposer take any of the following actions in order to encourage potential major subcontractors to solicit DBE firms for participation in that subcontractor's portion of the potential work (check those that apply)

- ☐ Provided interested subcontractors with DBE goal information and contracting policy documents. If checked, when did this occur?
- ☐ Provided interested subcontractors with information on where to find eligible DBE firms. If checked, when did this occur?
- ☐ Negotiated or requested a target level of DBE participation with subcontractors. If checked, when did this occur?

- d. Describe any other efforts used by Proposer to solicit the interest of DBEs to participate with the Proposer on this project:

2. Describe Proposer's efforts to select portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal would be achieved. (This includes, where appropriate, breaking out project work items into economically feasible units to facilitate DBE participation, even when the Proposer might otherwise prefer to perform these work items with its own forces; and establishing delivery schedules which will encourage DBE participation.)

- a. List specific areas/types of work that Proposer identified for DBE participation based on project needs and eligible DBEs listed in authorized directories:

Area/Type of Work	Number of DBEs identified who perform this area or type of work

- b. Did the Proposer break out any project items into economically feasible units to facilitate DBE participation? Yes ___ No ___

If yes, describe up to six examples of work items that were broken out into small units for this purpose:

If no, explain why such an effort was not undertaken:

- c. Did the Proposer consider having one or more DBE firms perform work that the Proposer usually performs with its own forces?
Yes ___ No ___

If Yes, explain whether the Proposer was or was not successful and the factors for the result:

If No, explain why such an approach was not considered:

- d. Describe any other efforts Proposer used to arrange the work of the project in order to increase the likelihood that the DBE goal would be achieved:

3. Describe Proposer's efforts to provide interested DBEs with adequate information about the scope of services and requirements of the RFP in a timely manner to assist them in responding to a solicitation:

- a. Check below all applicable efforts used for the described purpose and, in each case, indicate when the effort took place:

___ Invited interested DBEs to discuss potential roles on the project. If checked, state when the invitation was made:

___ Provided interested DBEs with project information to review. If checked, state when such plans were provided:

___ Referred interested DBEs to a location where project information could be reviewed. If checked, state when such referral or referrals took place and to what location the referral was made:

- b. Describe any other efforts that Proposer made to provide interested DBEs with information about the scope of services and requirements for the project and when those efforts took place.

4. Describe Proposer's efforts to negotiate in good faith with interested DBEs.

- a. Did Proposer reject any proposals from DBE firms?

If yes, explain why the proposals were rejected:

DBE Firm	Reason why Proposal was Rejected

- b. Did the Proposer reject any proposals from DBEs solely due to price differential? Yes___ No ___
If yes, did the Proposer find the DBEs quotes excessive or unreasonable and, if so, explain why:

5. Describe Proposer's efforts to avoid rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. (The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals in the contractor's efforts to meet the project goal.)

- a. Did the Proposer reject any proposals from DBEs solely because the Proposer did not consider the DBE qualified? Yes___ No___
If Yes, describe the Proposer's investigation of each rejected DBE's capabilities and the specific reasons for rejection or non-solicitation of each rejected DBE:

6. Describe Proposer's efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the RFP:

DBE Name	DBE Accepted Offer of assistance – Yes or No	Results of Effort if Offer of Assistance Accepted

7. Describe Proposer's efforts to effectively use the services of available community organizations to identify DBE businesses to propose on subcontracting work.

a. Check below any organizations that the Proposer used the services of to provide assistance in the recruitment of DBE firms:

- ☐ National Association of Minority Contractors
- ☐ Association of Women Contractors
- ☐ Metropolitan Economic Development Agency/PTAC

- ☐ Minnesota Minority Suppliers Development Council
- ☐ One or more of the Ethnic Chambers of Commerce
- ☐ One or more Veteran Assistance Organizations
- ☐ Other (explain) _____

b. List any other organizations that Proposer used the services of for the described purposes:

c. If none of the organizations in paragraph a above were used and if no other organizations are listed by Proposer in paragraph b, explain why the services of such organizations were not utilized by the Proposer:

8. Describe other factors or types of efforts used by Proposer in its good faith effort to meet the project DBE goal:

PROPOSERS must sign the following certification and attach all documentation of good faith efforts.

CERTIFICATION

I certify that the Proposer has made appropriate efforts to comply with the DBE requirements for this contract by undertaking the efforts documented in this certification. I have enclosed or attached all documentation of the Proposer's efforts to comply with the DBE requirements, on which the Council may rely in determining whether the Proposer has met the good faith efforts requirements. I am authorized on behalf of the Proposer to submit this form and documentation to the Council. This certification is a material representation of fact on which the Council may rely in awarding the contract.

Proposer Name: _____

Proposer Title: _____

Proposer Signature: _____

Date: _____

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMMITMENTS & GOOD FAITH EFFORTS (GFE) FORM**

PART C – Letter of Intent

(Must be completed and signed by each DBE listed on Part A)

Proposer:	Contract Number:	Project Name:

DBE Name: _____ **Phone:** _____

Address: _____ **City:** _____ **State:** _____ **Zip:** _____

Participating As: ___ Prime ___ Subcontractor ___ Supplier (60% credit) ___ Manufacturer ___ Trucker

Description of work to be performed

1. This is a letter of intent between the Proposer on this project and a DBE firm to perform subcontract work on this project.
2. By signing below, the above named DBE is committing to perform the work described above.

Affirmation: I hereby affirm that the information above is true and correct.

DBE Representative Name: _____ Title: _____ Date: _____

DBE Representative Signature: _____