

Chapter 10C

Minority and Woman Owned Business Enterprise (M/WBE) Program

Sec. 1-10-132. Title

The City of Augusta, Georgia Minority and Woman Owned Business Enterprise Program (“M/WBE Program”).

Sec. 1-10-133. Policy and Purposes.

It is the policy of the City of Augusta to take all necessary, reasonable, and legal action to prevent discrimination and to ensure that all businesses, including M/WBEs, are afforded a fair opportunity to participate in the City's contracting process. The M/WBE Program shall be implemented to remedy the documented statistical underutilization that continues to adversely affect the participation of certain M/WBE businesses in the awarding of the City's prime contracts and subcontracts, as more fully set forth in the 2022 Disparity Study commissioned by, and subsequently adopted by, the City. The M/WBE Program shall ensure that City contracts are awarded in a manner that promotes economic inclusion of all segments of the business population regardless of race or gender (or other defined disadvantage), in order to maximize the economic vitality and development of the City.

The City of Augusta continues, and expands, its commitment to promoting fair and open competition for M/WBEs seeking to do business with the City, including continuing to ensure that prime contractors do not discriminate in their solicitation, selection, or treatment of subcontractors.

The best management practices employed by the City in furtherance of this M/WBE Program are designed to deliver innovative solutions to increase the Program’s effectiveness. A core objective of the M/WBE Program is to increase both the dollar amount and percentage of services and supplies the City procures from M/WBEs to more closely align with their Availability in the program area. The City will also continue to foster its best management practices to further build the capacity of M/WBEs in the program area toward this goal.

Sec. 1-10-134. Commercial Nondiscrimination Policy.

It is the policy of the City of Augusta not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy

shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination.

The Director of Compliance shall implement this policy by periodically conducting outreach and distributing educational materials to the City's contracting and vendor community and related trade associations to advise such contractors, vendors and prospective respondents of this policy and the procedures to be followed in submitting complaints alleging violations of this nondiscrimination policy. The Director of Compliance or designee, Mayor or designee, and the City Attorney's Office shall insure that the following commercial nondiscrimination clause language is set forth in and incorporated into all the City contracts that result from formal solicitations:

"As a condition of entering into this agreement, the company represents and warrants that it will comply with the City's Commercial Nondiscrimination Policy. As part of such compliance, the company shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party."

In addition, the Director of Compliance or designee may conduct an investigation into possible violations where the M/WBE participation is substantially below the M/WBE Annual Aspirational Goal or Subcontractor Goal established for the contract.

Sec. 1-10-135. Definitions

For the purpose of this Chapter 10C, the following words, terms, phrases, and abbreviations shall have the following meanings:

African American: means persons having origins in any black racial group of Africa. It includes people who indicate their race as "Black, African American, or Negro," or provide written entries such as African American, Afro American, Kenyan, Nigerian, or Haitian.

Annual Aspirational Goal: means a non-mandatory annual aspirational percentage goal for overall M/WBE Prime and Subcontractor participation in City contracts for Construction, Architecture &

Engineering, Professional Services, Other Services, and Goods contracts. This goal is established every five (5) years by a duly-authorized disparity study and based upon and derived from the Prime and Subcontractor Availability statistics provided therein and is measured every year to ascertain program effectiveness.

Asian: means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

Availability: means being “qualified” to perform work for the City. This means that the Bidder does business within an industry group from which the City and its agencies make certain purchases; the firm's owner has taken steps to do business with the City and qualified itself to do such business by registering or certifying; and the firm is located within a relevant geographical area such that it can do business with the City of Augusta.

Bidder: means any individual, sole proprietorship, partnership, joint venture, or corporation that submits a Bid to the City.

Certification: means the qualifying process that assures buyers and local, state, and federal agencies that a particular business is an M/WBE. Certification or Recertification shall mean official recognition and approval by City (or other acceptable certifying agency) that a business meets the qualification criteria of an MBE/WBE, as set forth in this Program. Certification or Recertification relates to qualifications regarding ownership and control, not the quality of the service or product.

Citizen’s Small Business Advisory Board (CSBAB). Is a council to advise the Commission and the Director of minority and small business opportunities of matters pertaining to the M/WBE Program, and to meet with minority and woman small businesses to review and advise as to the issues in program administration. *See* Ga. Laws 1995, p. 3648, § 14(d) (hereinafter Consolidation Act).

Commercially Useful Function (CUF). For the purpose of determining whether a registered M/WBE firm is performing a CUF, the Director of Compliance shall consider all of the facts in the record, viewed as a whole, including without limitation the following:

- (i) A M/WBE firm performs a CUF 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.
- (ii) To perform a CUF, the M/WBE firm must be responsible, with respect to material and supplies used on the contract or sub-contract for which it is engaged, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
- (iii) A M/WBE firm does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/WBE participation. In determining whether a M/WBE firm is such an extra participant, the Director of Compliance

will examine similar transactions, particularly those in which Local Small Businesses do not participate.

Compliance: means the condition existing when a Participant has met the requirements of this M/WBE Program.

Control: means the authority of an individual or business owner to sign responses to solicitations and contracts, to make price negotiation decisions, to sell or liquidate the business, and to direct the day- to-day business management and operations without interference from others.

Covenant of Non-Discrimination: means, collectively, one or more contractual affirmative promises (1) to adopt the policies of the City relating to the participation of M/WBEs in the procurement process; (2) to undertake certain good faith efforts to solicit M/WBE participation; and (3) not to otherwise engage in discriminatory conduct against M/WBEs.

Goal, or Contract-by-Contract Goal: means race or gender-conscious corrective measures administered on a contract-by-contract or project-by-project basis which measure sets a percentage-based minimum participation level for M/WBE subcontractors based on the available subcontracting opportunities for that project and the available firms and may be set as MBEs and WBEs.

Goal Setting Committee ("GSC"): means a committee tasked with setting contract/project goals for the M/WBE Program.

Good Faith Efforts ("GFE"): means the voluntary actions of a Participant undertaken in good faith to ensure that it does not discriminate in its contracting practices and to explain any failure to meet either an Annual Aspirational Goal or a contract/project Goal set in accordance with this legislation.

Gross Receipts. Total income or, in the case of sole proprietorship gross income, plus "cost of goods sold" as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships

Hispanic American: means people who identify with the terms "Hispanic" or "Latino" and who classify themselves in a specific Hispanic or Latino category such as "Mexican," "Puerto Rican," "Cuban," or "other Spanish, Hispanic, or Latino."

Lowest Responsive and Responsible Bidder: means the bidder who fully complied with all of the bid requirements and whose past performance, reputation, and financial capability is deemed acceptable and has offered the most advantageous pricing or cost benefit, based on the criteria stipulated in the bid documents.

Minority Business Enterprise ("MBE"): means a business enterprise maintaining a significant business presence in the Program Area and performing a commercially useful function that is owned by one or more of the following: (1) African Americans, (2) Native Americans, (3) Hispanic Americans, (4) Asian Americans.

Minority or Women Owned Business Enterprise ("M/WBE"): means a business enterprise maintaining a significant business presence in the Program Area and performing a commercially useful function that is owned by one or more of the following: (1) African Americans, (2) Native Americans, (3) Hispanic Americans, (4) Asian Americans, and (5) Women. Racial and gender categories are separated for monitoring and tracking purposes only.

M/WBE Owned: means that African American, Native American, Hispanic American, Asian American, or Woman owner(s) who are citizens or permanent residents of the United States individually or collectively possess an ownership interest of at least fifty-one percent (51%) of the business.

Native American: means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

Non-Compliance: means the condition existing when a Participant has failed to meet the requirements of the M/WBE Program.

Participant: means an individual or entity that enters into a contract with the City to provide goods or services within the scope of the M/WBE Program, or a subcontractor or supplier to such an individual or entity.

Personal Net Worth ("PNW"). The PNW of any owner of the M/WBE firm cannot exceed the PNW of an "economically disadvantaged" person as measured by the applicable federal standards. The Net value of the assets of an individual owner, after total liabilities are deducted must not exceed one million, two hundred and fifty thousand dollars (\$1,250,000). An individual's PNW does not include the individual's ownership interest and the individual's equity in his or her primary place of residence or the business they are seeking to certify. An individual's PNW includes his or her share of assets held jointly with the individual's spouse. Property held by the entirety is deemed to be owned equally by the spouse.

Prime Contractor. A person or firm who is awarded a contract from Augusta, Georgia for provision of goods or services and has the primary responsibility for performance of the contract. The Prime Contractor may subcontract portions of the work required to Subcontractors, as indicated in the bid or solicitation documents

Program Area: means the geographic area covered by the M/WBE Program, as determined by the most recent disparity study.

Program Waiver: means a particular procurement for which goals are not required and is therefore waived from inclusion in the M/WBE subcontractor goals policy. This is not the same as a "Waiver based on Good Faith Efforts," defined below.

Race/Gender-Conscious: means any governmental or legislative policy or programmatic action that uses race or gender as criteria for participation.

Race/Gender-Neutral: means any governmental or legislative policy or a programmatic action in which race or gender is not among the criteria for participation.

Responsible: means a contractor fully capable of meeting all the requirements of the solicitation and subsequent contract. The contractor must possess the full capability, including financial and technical, to perform as contractually required.

Responsive: means a contractor, business, or individual who has submitted a bid or request for proposal that fully conforms in all material respects to the City solicitation documents and all of its requirements, including all form and substance.

Subcontractor: means an individual or business that has a contract to perform a service or provide materials, equipment, and/or supplies as a part of the scope of work set forth in a prime contract awarded by the City.

Waiver based on Good Faith Efforts: means an exception provided to the lowest responsive and responsible bidder who did not meet or exceed the M/WBE subcontractor goals on a specific project/contract but who satisfactory provided Good Faith Efforts documentation.

Woman Business Enterprise (“WBE”): means a business enterprise maintaining a significant business presence in the Program Area and performing a commercially useful function that is owned and controlled by one or more non-minority women.

Sec. 1-10-136. Application

Except as otherwise provided, this ordinance shall apply to all bids, proposals, contracts, expenditures, and purchases commenced by the City of Augusta, except sole source or emergency procurements and certain federally funded projects as provided herein. The effective date of this ordinance shall be the date it is approved by the City Commission.

Sec. 1-10-137. Race and Gender-Neutral Elements

Departmental Purchasing Forecasts

City Departments shall annually submit a forecast of contracts anticipated to be awarded in the ensuing fiscal year. Specifically, each Department shall designate a staff member to serve as a liaison to the Director of Compliance, and such departmental liaison shall be responsible for identifying for/with the Director of Compliance upcoming procurement opportunities, with the anticipated work categories (or commodity codes) involved, the scope of the services or goods, and the estimated cost for each project. The Director of Compliance (or its designee) shall email a copy of these departmental forecasts to all M/WBEs that are registered with the City as of the close of the previous fiscal year, so that they will be aware of upcoming opportunities to contract with the City and/or they can coordinate with potential prime contractors in preparation for bids or proposals. The forecasts shall also be posted on the City website and disseminated via social media.

City Departments shall quarterly submit a report which includes all revisions and updates to the annual forecast of contracts discussed herein.

Sec. 1-10-138. Race and Gender-Conscious Elements

Annual Aspirational Goals

Annual Aspirational Goals for M/WBE participation in City contracts in the categories of Construction, Architecture & Engineering, Professional Services, Other Services, and Goods (prime and subcontract dollars combined) are hereby established and are initially based upon the MBE and WBE availability by industry / commodity in accordance with the findings of the 2022 Disparity Study. These Goals shall be adjusted annually based on updated availability data.

Annual Aspirational Goals are not to be routinely applied to individual solicitations but are intended to serve as a benchmark against which to measure the overall effectiveness of the Director of minority and small business opportunities in increasing M/WBE participation on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and program elements being applied pursuant to this policy.

Annual Aspirational Goals may be included only in those City solicitations that do not contain contract-by-contract goal setting for specific M/WBE subcontractor goals and when included, shall be advisory only.

The City encourages maximum practicable opportunity(ies) for successful participation of MBE and WBE subcontracts. Bidders therefore agree to seek meaningful subcontracting opportunities with MBE and WBE firms. The City also requires a written plan for including MBE and WBE firms, which becomes a material part of the contract. The Bidder's plan must be responsive in the opinion of the City – evidencing a meaningful and successful search and commitments to include MBE and WBE firms for subcontracting work. The City reserves the right to improve the plan in consultation with the winning Bidder before contract execution.

Bidders should use selection methods and strategies sufficiently effective for successful MBE and WBE participation, including but not limited to:

- Forming an outreach strategy for meeting M/WBE aspirational goals
- Building an internal subcontractor connection and project team
- Strengthening business relationships with potential M/WBE subcontractors
- Improving the lines of communication
- Establishing business development support activities for M/WBE firms
- Developing approaches to resolving disputes
- Creating avenues to build capacity, including possible mentorship opportunities

At the City's request, Bidders must furnish evidence such as copies of agreements with MBE and/or WBE subcontractors either before contract execution or during contract performance. The winning Bidder must request written approval for changes to its inclusion plan once it is agreed upon. This includes changes to goals, subcontractor awards, and inclusion efforts.

Contract-by-Contract Subcontractor Goals

The City, through the Goal Setting Committee (GSC), will set specific, separate percentage-based MBE and WBE subcontracting goals on a contract-by contract basis for Prime contracts in Construction, Architecture & Engineering, Professional Services, and Other Services valued in excess of \$300,000. The City shall establish such goals based upon the type of contract, the type of subcontracting work that will be required, and the availability of M/WBE firms to perform the work for that specific contract. Within the above specific work categories, such goals will only be set to include the M/WBE groups/categories for which significant underutilization was demonstrated in the 2022 Disparity Study.

The GSC shall not establish subcontracting goals on contracts where (a) there are no subcontracting opportunities identified for the contract; or (b) there are not at least three (3) MBE and/or WBE firms that are available and capable to perform a CUF for the overall subcontracting opportunities on the contract.

All subcontracting goals authorized under this policy are intended to be established by the GSC and implemented only on a contract-by-contract basis. It is intended that such goal-setting will be based upon careful analysis of the availability of commercially useful subcontracting opportunities within a given contract and the relative availability of M/WBE firms to perform required tasks on such subcontract opportunities. Contract-by-contract goal-setting shall be based upon reasonably reliable M/WBE subcontractor availability data. Compliance with contract-specific subcontracting goals shall also require compliance with Good Faith Efforts as established herein.

The GSC shall not establish a subcontracting goal for a contract where there are no subcontracting opportunities identified for the contract or there are no MBEs or WBEs (as applicable) to perform scopes of work or provide products or services that the GSC regards as realistic opportunities for subcontracting. Accordingly, in establishing Subcontracting Goals, the GSC shall:

- Review in advance proposed contract bid specifications to ensure that they are not unnecessarily restrictive and do not adversely affect the ability of M/WBE firms to competitively bid;
- Formulate, recommend to the Director of Compliance or its designee, then implement additional rules and procedures for M/WBE subcontracting goal-setting and other aspects of its duties in selecting and applying specific program elements to contracts with the City in an efficient and effective manner; and
- Monitor and support the implementation of the contract-by-contract goals aspect of the MWBE program.

Goal Setting Committee

The Goal Setting Committee (GSC) is to be chaired by the Director of Compliance or its designee. The GSC shall include, at a minimum, the Director of Compliance or its designee, the Deputy Administrator or its designee, and the Director/Head of the originating department(s) or

its designee. Any of these committee members may, on an as-needed basis, also designate a subject matter expert to participate in the goal setting for the particular contract(s) at issue.

The GSC establishes contract-by-contract subcontracting goals based upon work categories (or commodity codes), vendor availability, and contract-specific characteristics.

At a minimum, the GSC shall:

- Meet as often as it deems necessary to accomplish its duties as outlined in this policy, but not less than once monthly;
- Review in advance proposed contract bid specifications to ensure that they are not unnecessarily restrictive and do not adversely affect the ability of M/WBE firms to competitively bid without adequate business justification;
- Formulate, recommend to the Commission (or its designee), and implement additional rules and procedures for goal-setting and other aspects of its duties in selecting and applying specific program elements to City contracts in an efficient and effective manner; and
- Support the implementation and efforts of the goals program.

Program Waiver Process

Should the GSC determine after consideration of all relevant documents and other information that there are no subcontracting opportunities identified for a particular contract or there are no MBEs or WBEs (as applicable) to perform scopes of work or provide products or services that the GSC regards as realistic opportunities for subcontracting, no subcontracting goal shall be assigned to such contract and a Program Waiver notification shall be issued by the GSC.

Good Faith Efforts (GFE) Requirements and Guidance

1. Achievement of subcontracting goals or documentation of Good Faith Efforts applies to every Contract for which such goals are established. The Bidder shall submit a compliance plan detailing its achievement of the goals or its Good Faith Efforts to meet the goals. The compliance plan shall be due at the time set out in the solicitation documents.

2. When a Bidder cannot achieve the goals, its compliance plan shall document its GFE to achieve the goals. The Director of Compliance will determine whether the Bidder has made such GFE. In making this determination, the Director of Compliance will consider, at a minimum, the Bidder's efforts to do the following:

a) Solicit through at least two reasonable, available, and verifiable means MBEs/WBEs who have the capability to perform the Contract work. The Bidder must solicit this interest providing a minimum of five (5) days' notice to allow the MBEs/WBEs to respond to the

solicitation. The Bidder must take appropriate steps to follow up initial solicitations with interested MBEs/WBEs.

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 to a solicitation.

c) Negotiate in good faith with interested MBEs/WBEs that have submitted bids or quotes to the bidder. An MBE/WBE that has submitted a bid or quote to a bidder but has not been contacted within five (5) business days of submission of the bid or quote may contact the Director of Compliance to request a meeting with the bidder. The Director of Compliance will schedule a meeting between the MBE/WBE and the bidder to facilitate negotiation.

d) Not reject MBEs/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The MBE's/WBE'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 rejecting or not soliciting bids to meet the goals.

e) Make economically feasible portions of the work available to MBE/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE/WBE Subcontractors and suppliers, to facilitate meeting the goals.

3. Bid shopping is prohibited. Written documentation of negotiation may include 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.

4. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a bidder's failure to meet the goals, as long as such costs are reasonable.

5. Bidders are not required to accept higher quotes in order to meet goals.

6. The following factors may also be considered by the Director of Compliance in determining that a Bidder has made GFEs. These factors are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:

a) Making efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or Contractor.

b) Making efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

c) Whether the bidder sought guidance from the Director of Compliance on any questions regarding compliance with this program.

d) The performance of other bidders in meeting the goals. For example, when other bidders meet the goals, it may be reasonably questioned whether, with additional reasonable efforts, the apparent successful bidder could have met the goals. Similarly, if the apparent successful bidder fails to meet the goals but meets or exceeds the average MBE/WBE participation obtained by other Bidders, this may be evidence that the apparent successful Bidder made GFEs.

7. In the event the applicable goal(s) have not been achieved, then the Director of Compliance shall evaluate the bidder's GFE to achieve those goals as documented in the compliance plan based on the criteria established herein. The Director of Compliance may request clarification in writing of items listed in the compliance plan, provided such clarification is minor and shall not include the opportunity to alter or add to listed MBE/WBE participation or GFEs.

8. If the Director of Compliance finds that a bidder did not make sufficient GFEs, his or her findings shall be communicated to the Director of Procurement, recommending that the Bid/Proposal be rejected based on failure to comply with the GFEs requirements. The Director of Compliance may reject the Bid/Proposal as not in compliance with this provision or may advise the Director of Procurement of additional considerations which may form the basis for accepting the Bid/Proposal as being in the best overall interest of the City.

9. If the Director of Compliance finds that the Bid/Proposal does not comply with the GFEs requirements, a bidder may request a protest hearing. The Board of Commissioners has the authority to make the final decision.

Sec. 1-10-139. Compliance Good Faith Efforts Protests

Authority to Resolve Protested Solicitations and Awards

- a) *Right to Protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Compliance Director.
- b) *Authority to Resolve Protests.* The Director of Compliance and the Administrator shall have the authority, prior to a final decision by the Commission, to settle and resolve the protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.
- c) *Decision of Director of Compliance.* If the protest is not resolved by mutual agreement, the Compliance Director shall issue a decision in writing regarding the protest. The decision shall:
 1. state the reasons for the action taken; and
 2. inform the protester of its right to administrative review as provided in this Article.
- d) *Notice of Decision.* A copy of the decision shall be mailed or otherwise furnished to the protestor and any other interested party.

- e) *Finality of Decision.* A decision under Subsection (d) of this Section shall be final and conclusive, unless any person adversely affected by the decision files a timely appeal in accordance with **Article 9 of this code.**
- f) *Stay of Procurements During Protests or Appeals.* In the event of a timely protest under section 1-10-140 of this Article, the Procurement Director shall not proceed further with the solicitation or with the award of the contract unless the Administrator, after consultation with the head of the using agency and General Counsel, makes determination that the award of the contract without delay is necessary to protect substantial interests of Augusta, Georgia. Such a determination may be made orally in a Committee Meeting, a Commission Meeting or may be provided to the protestor in writing.

Sec. 1-10-140. Filing of Protest

- (a) Protests shall be made in writing to the Director of Compliance and shall be filed in within five (5) business days after the protestor knows or should have known of the facts giving rise thereto. A protest is considered filed when received by the Compliance Department. **Protests filed after the five (5) day period shall not be considered and are deemed a failure on the part of the protestor to exhaust administrative remedies.**
- (b) *Subject of Protest.* Protestors may file a protest with the Compliance Department when it is concerning good faith efforts.
- (c) To expedite handling of protests, the written protest shall include as a minimum the following:
 - 1. the name and address of the protestor;
 - 2. appropriate identification of the procurement, and, if a contract has been awarded, its number;
 - 3. a statement of reasons for the protest; and
 - 4. supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated.
- (d) *Requested Information; Time for Filing.* Any additional information requested by any of the parties should be submitted within the time periods established Compliance Director in order to expedite consideration of the protest. Failure of any party to comply expeditiously with a request for information by the Compliance Director may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.
- (e) *Making Information on Protests Available.* The Compliance Director shall upon written request make available to any interested party information submitted that bears on the

substance of the protest except where information is proprietary, confidential, or otherwise prohibited from disclosure or required to be withheld by law or regulation. Persons who wish to keep such information submitted by them confidential should so request by specifically identifying such information within documents submitted and indicating on the front page of each document that it contains such information.

Sec. 1-10-141. Decision by the Director of Compliance

Time for Decisions. A written decision on a protest concerning good faith efforts shall be made by the Compliance Director within ten (10) business days after receiving all relevant, requested information.

Sec. 1-10-142. Appeals

Appeal of a decision of the Director of Compliance may be requested by the protestor or any department involved in the protest. The appeal shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted.

Sec. 1-10-143. Time for Filing Appeal

Appeals of a decision of the Director of Compliance shall be filed in the Compliance Department not later than five (5) business days after receipt of such decision concerning good faith efforts.

Sec. 1-10-144. Request for Hearing and Effect of Untimely Appeal

A contractor or prospective contractor that has been notified of a denial of its protest action may request in writing an appeal to the Augusta, Georgia Commission. All appeals must be received by the Compliance Department within five (5) business days. **Appeals filed after the five (5) day period shall not be considered and are deemed a failure on the part of the protestor to exhaust administrative remedies.** Where no appeal (or an untimely appeal) is filed, the Compliance Director's decision is considered final, and the award of eligibility shall proceed.

Sec. 1-10-145. Notice of Hearing

If a timely appeal is filed by the protestor, the Director of Compliance shall place the protest on the agenda of the Administrative Services Committee. The Clerk of Commission's Office shall provide public notice of the Administrative Services Committee agenda as required by law. In addition, the protestor shall be sent written notice of the time and place of the hearing. Copies of such notice shall be sent to the Augusta, Georgia General Counsel and the Department Director of the appropriate user department.

Sec. 1-10-146. Administrative Services Committee Hearing Procedures and Effect of Failure to Appear at Hearing (Ordinance 7439 - Approved 11-19-13)

- (a) Protests appearing on the Administrative Services Committee shall be treated as any other Committee agenda item, except that the Protestor, or his or her representative, shall have the right to address the Committee and to present evidence in support of the protest for a maximum of ten (10) minutes. The Director of Compliance and user department, or their representative, shall also have the opportunity to present evidence relating to the protest for a maximum of ten (10) minutes. The Chairman of the Administrative Services Committee may grant additional time equally to each party at his or her discretion.
- (b) After considering the evidence presented, the Administrative Services Committee shall make a recommendation to grant or deny the protest, or to send the item to the full Augusta, Georgia Commission without recommendation. Regardless of the action taken by the Committee, the protest shall be forwarded to the full Commission agenda for a final decision. The Clerk of Commission shall make an audio recording of the protest hearing and shall make such recording available to Commissioners within two (2) business days following the hearing.
- (c) Procedure to Speak to Full Commission Regarding Protest.
A protestor seeking to speak to the full Commission regarding his or her protest must submit a request in writing, including his/her address and the name of the procurement being protested, no later than 5:00 p.m. on the Wednesday preceding the next regularly scheduled Commission meeting that follows the Administrative Services Committee protest hearing. Such request shall be provided to the Clerk of Commission with a copy to be provided to the Director of Compliance. When the protest is heard by the Commission, the protestor and the Director of Compliance shall each have five (5) minutes to summarize the arguments and evidence presented to the Administrative Services Committee. The Commission will not hold a new hearing and will not accept new evidence. If the protestor has not made a timely request to address the full Commission, the Commission may, at its discretion, dispose of the agenda item via the Consent Agenda.
- (d) Effect of Failure to Appear at Hearing. Failure on the part of the Protestor to appear before either the Administrative Services Committee or the full Augusta, Georgia Commission is considered **an abandonment of their right to appeal and a failure on the part of the protestor to exhaust administrative remedies.** The Director of Compliance decision is considered final and the award shall proceed accordingly. However, the Chairman of the Administrative Services Committee or the Mayor may, at his or her discretion, grant the Protestor one continuance to the next regularly scheduled Committee or Commission Meeting. Such continuance may only be granted during the Committee or Commission meeting and shall be recorded on the minutes of such meeting.

Sec. 1-10-147. Authority of Administrator to Participate in Procurement Matters.

The Augusta, Georgia Administrator has the authority to:

- (a) communicate with the protestor and other interested parties to try to settle any dispute, or narrow the issues for matters to be presented to the Committee or Commission;
- (b) consult with the Director of Compliance, the User Department and the General Counsel regarding the need for a stay pursuant to Section 1-10-139(f);
- (c) participate in all aspects of the procurement process as necessary to support the best interests of Augusta, Georgia.

Sec. 1-10- 148. Hearing Procedures

- (a) Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with the applicable rules of the Administrative Services Committee and Commission. The Director of Compliance shall provide the Administrative Services Committee and Commission with copies of the protest and the response of the Procurement Department.
2. Witnesses providing testimony at before the Administrative Services Committee or Commission shall testify under oath or affirmation.

Sec. 1-10-149. Determination of Commission; final decision

The Commission's decision regarding a Protest is the final step in the Appeals process for Augusta, Georgia. The parties shall have thirty (30) days to file a judicial appeal of any such decision. Such appeal shall be by writ of certiorari to the Superior Court of Richmond County.

Sec. 1-10-150. Mentor-Protégé Initiative

The Mentor-Protégé Initiative is established to grow capacity and to foster sustainable business development for M/WBE firms. The initiative connects more-established and successful prime firms and managers with less-established M/WBE firms to provide management guidance and training.

Based upon the scope of work and market availability, the Director of Compliance or designee shall determine on a project-by-project basis on eligible projects for M/WBEs whether a mentor-protégé relationship shall be required for such contract. On such contracts no bid shall be accepted unless submitted by a mentor-protégé team.

Eligibility

Firms seeking to bid or participate on a designated Mentor-Protégé contract shall apply for consideration with the Director of Compliance, referencing the City contract at issue. Proposed

Mentor firms must have at least five (5) years of experience in the relevant industry category; proposed Protégé firms must have at least (2) years of experience in the relevant industry category.

Team Matching

Mentor-Protégé teams will be matched by the Mentor-Protégé Committee (Committee), discussed below, with each match recommendation to be submitted to the Director of Compliance for further consideration. Among the considerations for the team matching process, the Committee will make efforts to create mentor and protégé teams with members with different race ownership, different gender ownership, or both. M/WBE members of the mentor-protégé team must be certified as such, and the mentor-protégé team shall include in its bid submittal the certification proof for each M/WBE team member.

Mentor-Protégé Agreements and Processes

Contract awards to Mentor-Protégé teams shall be limited to one (1) year, with a discretionary option for the City to extend the contract an additional one (1) year where the contracted work remains to be completed.

Once matched pursuant to this section, a written mentor-protégé agreement must be completed by both parties to the mentor-protégé relationship which clearly delineates the rights and responsibilities of the mentor and protégé, complies with any requirements set forth in bid documents or otherwise, and provides that the mentor-protégé relationship shall continue for, at a minimum, the duration of the project.

Written mentor-protégé team plans outlining the expectations and responsibilities of each team member must be submitted to the Director of Compliance for approval prior to execution of a contract with the City.

Mentors shall provide guidance and training in such areas as office procedures, estimating and bidding, bookkeeping and accounting, management of funds, project management, supplier relationships, bonding and insurance, and related matters.

During the term of the contract the mentor and protégé businesses must each provide to the Director of Compliance a quarterly summary of the mentor skills provided to the protégé, which shall include:

1. The time spent between mentor and protégé businesses in furtherance of the mentor-protégé relationship;
2. The nature and extent of managerial, technical, financial and/or bonding assistance provided;
3. A summary and explanation of any projects bid on or undertaken by the mentor-protégé team in the private sector or for a governmental entity other than the city; and

4. Any additional or further information required by the Director of Compliance as set forth in bid documents or otherwise.

The Mentor–Protégé Committee

A Mentor-Protégé Committee shall be created to assist with administration of the City’s Mentor-Protégé Initiative. The Committee shall be comprised of nine (7) members, and shall include the following:

City Government Members (3)

Director of Compliance

Public Utilities

Engineering

Trade Groups (2)

Community Organizations (2)

Sec. 1-10-151. M/WBE Certification Procedures

- (a) *Certification Criteria; Acceptance of Certification by Other Governmental Agencies.* Certification is the qualifying process that ensures that a particular business is an M/WBE, consistent with the factors and standards established by the Compliance Department. Certification assures that interested M/WBEs have the proper ownership, control, and management. Eligibility requirements for certification are:

1. Applicant(s) must be a member of a qualifying minority group as defined by the United States Small Business Administration under 13 C.F.R. 124.103 and the United States Equal Employment Opportunity Commission, and includes African Americans, Hispanic Americans, Asian Americans, Native Americans **or**;
2. Applicant(s) firm must be one that is owned and controlled by one or more non-minority women.
3. Applicant(s) must demonstrate ownership and control. An eligible minority-owned business shall be a for-profit enterprise that is at least 51 percent or more owned and controlled by one or more minority persons. An eligible woman-owned business shall be a for-profit enterprise that is 51 percent or more owned and controlled by one or more non-minority women.
4. Applicant(s) must be a citizen or lawfully admitted permanent resident of the United States.

5. Applicant firm must have its principal place of business located within the geographic limits of the Augusta MSA (i.e., Burke, Columbia, Lincoln, McDuffie, Richmond Counties, GA and Aiken and Edgefield Counties, SC) and the Atlanta MSA (i.e., Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale, Counties, GA) as set forth in the 2022 Disparity Study.
6. Applicant(s) must obtain the M/WBE application from the Compliance Department and must qualify as a M/WBE, as the term is defined in this Article as to principal place of business, gross annual receipts and personal net worth thresholds. The completed application and supporting documentation must be submitted to the Compliance Department or may be completed online via the B2Gnow Diversity Compliance Management System.
7. The personal net worth of any owner of the M/WBE firm cannot exceed the personal net worth of an “economically disadvantaged” person as measured by the applicable federal standards. No individual owner of an applicant firm may have a Personal Net Worth that exceeds \$1,250,000.
8. To be an eligible M/WBE, a firm (including its affiliates) must be an existing small business, as defined by the Small Business Administration (SBA) standards found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform on City of Augusta contracts.
9. M/WBE certification is valid for a three-year (3) period beginning on the date Augusta, Georgia certifies the business into the M/WBE Program with annual updates beginning on the 1st and 2nd year anniversary of certification, and recertification on the 3rd year.
10. The City of Augusta accepts certifications from other bona fide certifying agencies or organizations (called “reciprocal certification”) in the relevant geographic market, as described below:
 - i. A minority or woman owned business certified in the Department of Administrative Services Minority Business Enterprise (MBE) program.
 - ii. A minority or woman owned business certified in the State of Georgia Department of Transportation (GDOT) Disadvantaged Business Enterprise (DBE) program.

- iii. A minority or woman owned business certified in the State of Georgia Department of Transportation (GDOT) Small Business Enterprise (SBE) program.
- iv. A minority or woman owned business certified in the City of Atlanta Equal Business Opportunity (EBO) program.
- v. A minority or woman owned business certified in the Fulton County, GA Minority Female Business Enterprise (MFBE) program.
- vi. A minority or woman owned business certified in the Clayton County, GA Minority and Woman Business Enterprise (MWBE) program.
- vii. A minority or woman owned business certified in the State of South Carolina Department of Transportation (SCDOT) Disadvantaged Business Enterprise (DBE) program.
- viii. A minority or woman owned business certified in the State of South Carolina Department of Transportation (GDOT) Small Business Enterprise (SBE) program.
- ix. A minority owned or small business certified in the State of South Carolina Division of Small and Minority Business Contracting and Certification (SMBCC) program.
- x. Any other bona fide M/WBE or SBE certifying agencies or organizations in the relevant geographic market.

(b) *Affidavit of No Change.* M/WBE certification is valid for a three-year (3) period beginning on the date Augusta, Georgia registers the business into the M/WBE Program. On the 1st and 2nd year anniversary of certification, the M/WBE must provide a completed Affidavit of No Change and evidence of continuing eligibility. Upon review and determination of continued eligibility the M/WBE will remain certified with the City.

(c) *Renewal of Certification.* M/WBE certification is valid for a three-year (3) period beginning on the date Augusta, Georgia registers the business into the LSBP. Sixty (60) days prior to the expiration of the certification of the M/WBE, the M/WBE must recertify by submitting a recertification application and evidence of continuing eligibility. Upon review and determination of continued eligibility, the M/WBE firm will be recertified for an additional three years.

It is the responsibility of the M/WBE to notify the Director of Compliance of any change(s) in its circumstances affecting its continued eligibility for the program. Failure to do so may result in the firm's decertification and preclusion from future participation in the M/WBE Program.

(d) *Graduation.* A minority or woman owned business graduates from, and is therefore ineligible for, the M/WBE Contract-by-Contract Subcontracting Goals program if any one of the following occurs:

1. The M/WBE firm's three-year (3) average of gross receipts exceeds the applicable SBA size standards set forth in 13 C.F.R. Part 121;
2. The personal net worth of any owner of the M/WBE firm exceeds the personal net worth of an "economically disadvantaged" person as measured by the applicable federal standards.
3. The M/WBE firm has participated in the M/WBE Program for ten (10) years and Augusta, Georgia has not approved an extension of participation based on good cause.

(e) *Limitations.* Notwithstanding any other provision of this program except on a finding of good cause by Augusta, Georgia, a certified M/WBE is no longer eligible to participate in the M/WBE Program after being enrolled for ten (10) consecutive years regardless of whether the firm received contracts or prime contracts under the program. If a firm has been released from the program before graduation as a result of exceeding the M/WBE thresholds, it will still be eligible to receive contracts from Augusta.

In determining whether a good cause exists for a firm to continue participation beyond ten (10) consecutive years, Augusta may review all relevant factors such as amount of business previously received by the firm, and capability of other small firms to provide goods and services, impact on a potential contract opportunity for other minority-owned and women-owned businesses to compete. In no event shall a firm's participation in the program extend beyond fifteen (15) years.

Participation or certification as a minority-owned or woman-owned business in the M/WBE Program shall not preclude a certified firm from competing for a prime contract with Augusta, Georgia on the same basis as other prime contractors or suppliers.

Sec. 1-10-152. Duties for the Operation of the M/WBE Program

General Duties

The Director of Compliance shall manage and monitor the City's utilization of M/WBEs. Specifically, the Director of Compliance shall: (1) adopt rules and procedures to implement the M/WBE Program, (2) create, maintain, and distribute the directory of certified M/WBEs, (3) regularly review the progress of each city department, office, and agency's achievement of the M/WBE goals, (4) ensure that city bids and proposals adhere to the procurement procedures contained herein, (5) monitor all prime contracts with M/WBE goals throughout the duration of the contract to ensure that all efforts are made to comply with goals, and (6) produce an annual M/WBE Utilization Report. The Compliance Department shall be adequately staffed with personnel who have the requisite skills, knowledge, and ability to implement the M/WBE Program objectives and responsibilities. The Compliance Department shall collaborate with the Procurement Director to adopt rules and procedures to implement the M/WBE program.

Specific Duties

Director of Compliance

The Director of Compliance leads and directs the day-to-day operations of the Department with primary responsibility for ADA, DBE (M/WBE & LSBP), and EEO Programs and services.

Specific to the M/WBE Program, the Director performs the following:

- Reports to and works with the Mayor, Commission, Administrator, Directors, and Employees in order to develop the ADA, DBE, EEO, M/WBE, and LSBP Programs.
- Develops and recommends program objectives.
- Supervises staff performing in the five core areas of focus for the office of Compliance.
- Provides oversight for compliance reviews in accordance with the relevant local, state, and federal policies and regulations.
- Directs the overall planning, operation and management of all the Department's programs, services and assigned resources.
- Conducts workshops and outreach within and outside the organization, including employee and management orientations, internal training sessions, and vendor workshops.
- Conducts compliance audits and investigations.
- Receives and reviews allegations of unfair employment practices and makes appropriate recommendations.
- Collaborates and communicates with the various City departments to ensure maximum outreach M/WBEs.
- Monitors and enforces the City's plan for equal opportunity in employment, promotion, recognition, etc. and ensures that each person regardless of race, color, gender, sexual orientation, pregnancy status, marital status, genetic information, national origin, age,

religion, disability, and veteran's status as an equal opportunity for employment and promotion.

- Collects and analyzes data sufficient to produce monthly, quarterly, and annual reports for the M/WBE Program.
- Works with the Capital Projects, Procurement, and other relevant functions to set contracting goals for each project over \$300,000 to include those with subcontracting and/or supplier possibilities.
- Interfaces with other City departments, Federal, State, and other local governmental agencies, citizens, businesses, legal, and organizations regarding the M/WBE Program and related EEO considerations.
- Maintains the M/WBE bidder's list for the City, and other contracts as required by the M/WBE Program.

DBE Compliance Manager

The DBE Compliance Manager performs highly responsible administration for monitoring and enforcing the City's plan for ensuring equal opportunity in contract administration. The Manager is tasked with encouraging and attaining increased involvement of Disadvantaged Business Enterprises (DBE), Minority and Woman Owned Businesses (M/WBE) and Local Small Business (LSB) programs in the City of Augusta Procurement process. In these general duties, the Manager works with the Mayor and Commissioners, Administrator, Deputy Administrators, Procurement and other department heads, management, attorneys, employees, and the media and general community.

Specific to the M/WBE Program, the Manager performs the following:

- Establishes, develops, administers, and implements criteria, procedures, and related forms for the M/WBE Program.
- Evaluates the feasibility of accepting certifications for (M/WBE & LSBP) from other governmental entities or industry groups, within or outside the Program Area ("reciprocal certification").
- Verifies and approves M/WBE (and LSBP) certification/denial status.
- Assists in organizing and conducting M/WBE certification workshops to assist potential applicants with the process.
- Reviews bids that provide a goal for M/WBE participation and recommends a bidder be awarded a contract only where the bidder has demonstrated Good Faith Efforts to meet the designated goals.
- Assist in investigating and evaluating Good Faith Efforts.

- Assists in assessing or evaluating M/WBE availability and capacity for specific scopes of work, including for the purposes of goal setting.
- Strategizes and implements capacity building assistance for M/WBEs, including in association with non-governmental third parties (e.g., industry groups, local Chambers of Commerce, community partners, anchor institutions).
- Assists in organizing and conducting M/WBE business development workshops to assist certified and non-certified firms with various business development topics.
- Assists in implementing the Mentor-Protégé policy, including designation of contracts for inclusion in policy, team matching, evaluation of agreements, and monitoring compliance with all aspects of the policy.
- Assist in tracking participation by M/WBEs on City contracts.
- Oversees and assists in required reporting of M/WBE utilization on City contracts.
- Prepares periodic M/WBE data reports for internal and external use.
- Assist in evaluating Commercially Useful Function of M/WBEs in bidding and post-bidding processes.
- Monitors compliance by vendors with respect to contracts, bid submissions, payments, and other post-award activities as related to M/WBE firms.
- Works with project managers or user agencies to divide larger projects into smaller projects or contracts when commercially appropriate, in order to create more opportunities for M/WBEs to participate in City contracts.
- Maintains M/WBE bidder's list for the City, and other contracts as required by the M/WBE Ordinance.

Authority to Monitor

The Compliance Department shall be authorized to collect from all Participants such data and information as is necessary to monitor the M/WBE Program. This information may include information regarding business ownership, supplier information, subcontractor information, all of which shall reflect the race, ethnic origin, gender, and business location of the identified businesses. The Compliance Department shall continuously monitor the participation of M/WBEs in the procurement of all industry categories for the City. Such monitoring shall include, without limitation, a statistical analysis of each construction trade, professional service, and other service to determine whether there is utilization of M/WBEs in a manner that is proportionate to the identified Availability range.

Duty to Report

The Compliance Department shall submit an annual report to the Commission regarding the effectiveness of the M/WBE Program. Such report shall include, without limitation, a summary of the purchases, contracts, and subcontracts placed with M/WBEs for the period and the relative percentage to the total of purchases and contracts for that period. The report shall also emphasize quantity and quality of M/WBE involvement by dollar volume. The report shall specify the race, national origin, and gender with each category reported separately. Payments made to non-certified M/WBEs shall be included as a separate set of figures for purposes of tabulating the total contract dollars going to M/WBEs. The report shall include an analysis of the percentage for the reporting period of M/WBE awards of the total awards for each M/WBE category and work/industry category and the percentage of Availability of M/WBEs in the Program Area for each M/WBE category and industry category.

The Compliance Department shall also submit annual reports to the Commission providing M/WBE utilization figures or estimates for each industry category. The utilization data provided in these reports shall be used to compare program outcomes to the Availability figures set forth in the most recent disparity study (and the aspirational goals set based on the study) and may be used to assist in the establishment of the contract-by-contract/project-by-project MBE and WBE Contract-by-Contract Subcontractor Goals discussed herein.

Authority to Investigate Discriminatory Practices, Non-Compliance, and Eligibility

Should a Bidder or Participant submit a written complaint of discrimination, the Compliance Department is authorized to investigate the complaint. An investigation may also be initiated based solely on a finding of a significant statistical disparity from the Annual Aspirational Goal or contract/project goal(s), as detailed herein. The details of any investigation, including findings, shall be recorded and maintained by the Compliance Department.

Upon the submission of a written sworn complaint of noncompliance, the Director of Compliance (or staff) may conduct an on-site inspection or desk audit of the project to determine whether the prime contractor has been utilizing the subcontractor in accordance with the contractual agreement for services.

The Compliance Department also has the authority to evaluate and/or investigate eligibility for inclusion in the M/WBE Program.

Sec. 1-10-153. Sanctions and Penalties for Noncompliance

The Director of Compliance shall recommend appropriate mechanisms to enforce the provisions of the M/WBE Program to the Commission, including but not limited to withholding of progress payments for non-compliance. Further, the failure of a Bidder or Participant to comply with the requirements of the M/WBE Program may be considered a material breach of Participant's agreement with the City and may be grounds for suspension or debarment.

Standards for Sanctions/Penalties.

Sanctions shall not be imposed unless there is evidence of specific conduct on the part of Participant that is inconsistent with or in direct contravention of the applicable provisions of this Program. In determining appropriate sanctions, the Director of Compliance and the Procurement Director, in consultation with the Commission, shall consider the following factors:

1. Whether the failure to comply with applicable requirements involved intentional conduct or, alternatively, may be reasonably concluded to have resulted from a misunderstanding on the part of the Participant of the duties imposed on them by this Program
2. The number of specific incidences of failure by the Participant to comply;
3. Whether the Participant has been previously suspended;
4. Whether the Participant has failed or refused to provide the Compliance Department with any information required or requested by this Program;
5. Whether the Participant has materially misrepresented any applicable facts in any filing or communication to the Compliance Department; and
6. Whether the Participant has subsequently restructured or taken other action to cure the deficiencies in meeting applicable requirements.

Sanctions Process.

Upon a determination by the Director of Compliance that a Participant has not fully and faithfully complied with the provisions of the M/WBE Program, in addition to any other remedies as may be available to the City under the relevant contract at law or in equity, the Compliance Department may, in its sole discretion, deduct from any scheduled or final payment due to the Participant the difference – calculated in dollars – between the agreed-upon MBW/WBE participation goal and the actual MBE/WBE goal(s) achieved by the Participant. In the event the Participant is able to adequately demonstrate and document good faith efforts to achieve initial compliance and/or perform as initially agreed-upon with regard to MBE/WBE participation, then the Participant shall not be liable for such sanctions/damages.

Sec. 1-10-154. Exceptions

In accordance with § 1-10-8, on federally funded projects or contracts, the M/WBE Program shall only be utilized when authorized by the applicable federal (and/or Georgia) laws, regulations, and conditions relating to that project or contract. To the extent that there are any conflicts between any such laws, regulations, or conditions and the provisions of the M/WBE Program, the federal (and/or Georgia) guidance shall control.

Sec. 1-10-155. Sunset / Renewal

Beginning no later than August 1, 2027, and every five years thereafter, the City shall issue a Request For Proposals (RFP) to undertake a comprehensive update of the full disparity study, and upon completion of each disparity study, present disparity study results to the City, and following official review and a public comment period regarding those study findings and recommendations, the City shall consider any proposed modifications to, or sunset of, the M/WBE Program.

Sec. 1-10-156. Severability Clause

If any of the provisions set forth in this Chapter, or any section, subsection, paragraph, sentence, clause, phrase, or word thereof shall be found to be invalid, illegal or unenforceable for any reason, the application of the remainder of this Chapter shall not be affected by such invalidity.

Sec. 1-10-157. Application

The amendments set forth in this Chapter shall not apply to any contract entered into and executed by the City, or any formal solicitation issued, prior to the effective date of the ordinance.

Sec. 1-10-158. Citizens Small Business Advisory Board

A Citizens' Small Business Advisory Board (CSBAB) shall be constituted to advise the Commission and the Director of Compliance on matters related to this ordinance, and to meet with minority owned and women owned small businesses, to review and provide input as to the issues in program administration. *See Consolidation Act § 14(d)*. Members are appointed by the Mayor, Commission and the Richmond County Legislative Delegation. A list of the appointees is maintained in the Clerk of Commission's Office and is incorporated herein by reference.

Sec. 1-10-159 through Sec. 1-10-999. Reserved.