



February 24, 2017

**MEMORANDUM**

TO: MSFA Commissioners

FROM: MSFA

SUBJECT: Approve Post Construction Equity Plan

Pursuant Minnesota Statutes, Section 473J.12, the Authority instituted an equity plan to make every effort to employ, and cause the NFL team, the construction manager and other subcontractors, vendors, and concessionaires to employ women and members of minority communities when hiring during Stadium construction.

The Statute also requires that an equity plan be developed for capital repair, replacement and improvement of the Stadium. Authority staff has now prepared, and is requesting adoption of, the attached post construction equity plan to support construction projects funded out of capital reserves.

***Recommendation:*** *The Authority authorizes the adoption of a post construction equity plan to support construction projects funded out of capital reserves.*

## **MINNESOTA MULTI-PURPOSE STADIUM FIRST PHASE CAPITAL IMPROVEMENTS EQUITY PLAN**

### **Section 1. Purpose / Outline – Overall**

- 1.1 Introduction. The State of Minnesota created the Minnesota Sports Facility Authority (“Authority”) to build the facility known as U.S. Bank Stadium (“Project”). The Authority is required by law to promote the involvement of women and members of minority communities in the construction of capital repairs, improvements, and replacements for the Project, as more completely described in Minn. Stat. § 473J.12. The Authority hereby adopts this comprehensive Equity Plan for the construction of the first phase of capital repairs, improvements, and replacements for the Project (“Capital Improvements Project”). The purpose of this Equity Plan is to implement the Authority’s statutory mandate to promote employment of women and members of minority communities, establish goals for construction contracts to be awarded to women-owned and minority-owned businesses, and establish workforce utilization goals in the construction of capital repairs, improvements, and replacements for capital improvements to the Stadium.
- 1.2 The Team. Minnesota Vikings Football, LLC (the “Team”) fully supports this Equity Plan.
- 1.3 Trade Contractor. The contractor hired by the Authority to perform construction of capital repairs, improvements, and replacements for capital improvement Projects to the Stadium shall be referred to as the “Trade Contractor”.
- 1.4 Targeted Business. In Sections 2-9 of the Equity Plan, the Authority establishes a Targeted Business Program. The Targeted Business Program sets an 11% and 9% goal for construction contracts for Capital Improvement Projects to be awarded to women- and minority-owned Minnesota-based business enterprises, respectively. The Targeted Business Program defines specifically how the goals may be met, the parameters of the necessary and reasonable good faith efforts to meet the goals, the requirements for reporting and monitoring, and the consequences of a Trade Contractor’s failure to make good faith efforts to achieve the goals.
- 1.5 Veterans. In Section 18 of the Equity Plan, the Authority establishes a Veterans Inclusion Program. The Authority honors the service of our veterans and intends to supplement its statutory mandate by creating the Veterans Inclusion Program to ensure that our veterans have every opportunity to participate in the Project. The Veterans Inclusion Program will include efforts to include small veteran-owned businesses in the construction contracts to be awarded by the Trade Contractor. The Veterans Inclusion Program will also include efforts to utilize veterans in the construction workforce.

- 1.6 Workforce. In Sections 10-16 of the Equity Plan, the Authority establishes a Workforce Program. The Workforce Program sets a 32% and 6% goal for workforce utilization for Capital Improvement Projects of minorities and women, respectively. The Workforce Program defines specifically how the goals may be met, the parameters of necessary and reasonable good faith efforts to meet the goals, the requirements for reporting and monitoring, and the consequences of a Trade Contractor's failure to make good faith efforts to achieve the goals.
- 1.7 Scope / Flowdown. As more specifically articulated in the Trade Contract Agreement to be entered into between the Authority and the Trade Contractor, this Equity Plan applies to the Trade Contractor and the Trade Contractor's Subcontractors and Suppliers of any tier.
- 1.8 Monitoring and Compliance. As more specifically described throughout the Equity Plan, the Authority has primary responsibility to monitor and audit the Trade Contractor's compliance with the Targeted Business Program, the Workforce Program, and the Veterans Inclusion Program.

## **Section 2 Targeted Business Program**

- 2.1 The Authority recognizes the legislature's mandate that the Authority establish and require Trade Contractors to exercise good faith efforts to meet goals for construction contracts for Capital Improvement Projects to be awarded to women- and minority-owned business enterprises ("Targeted Businesses") in a percentage at least equal to the minimum used for City of Minneapolis development projects. In furtherance of the intention of such mandate, the Authority also finds it appropriate to adopt this Targeted Business Program to establish participation goals for construction contracts entered into by the Authority's Trade Contractors for Capital Improvement Projects and their various Subcontractors and Suppliers of all tiers.
- 2.2 The Authority establishes this Targeted Business Program based on, among other things, the study completed by National Economic Research Associates, Inc. for the City of Minneapolis captioned "The State of Minority- and Women-Owned Business Enterprise: Evidence from Minneapolis" dated October 21, 2010 ("Disparity Study"), and supplemental reports. The Authority adopts this Targeted Business Program for purposes of, among other things, ensuring a "level playing field" for WBE/MBE firms, fostering equal opportunity for WBE/MBE firms in contracts with the Authority, and reducing the relevant disparities identified in the Disparity Study.
- 2.3 The Authority hereby adopts the participation goals for work included in the Trade Contract Agreement, based on the Disparity Study, and provided to the Authority by the City of Minneapolis. The Authority reserves the right to update these goals with input from the City of Minneapolis including, without limitation, after the full scope of work of a particular Capital Improvements Projects

becomes known. The goals, expressed as a percentage of the “Cost of the Work” as that term is defined by the Trade Contract Agreement are as follows:

- (a) 9% participation by MBE firms, as defined below, and
- (b) 11% participation by WBE firms, as defined below.

(“Targeted Business Goal”).

2.4 The Authority will require the Trade Contractor to make required good faith efforts to achieve the goals set forth in Section 2.3.

- 2.5 The Authority adopts this Targeted Business Program to define more specifically how the goals may be met, the parameters of the Trade Contractor’s required good faith efforts to meet the goals, the requirements for reporting and monitoring, and the consequences if the Trade Contractor fails to meet the goals and fails to make good faith efforts to achieve the goals.

**Section 3. Definitions – Targeted Business. For purposes of the Targeted Business Program:**

3.1 “MBE” means a Minnesota-based business that meets one or more of the following criteria:

- (a) Certified by the Minnesota Uniform Certification Program (“MUCP”) as an MBE (as that term is used by MUCP) and found in the MUCP directory at: <http://mnucp.metc.state.mn.us/>;
- (b) Certified by the Minnesota Department of Administration and classified as a Targeted Group (TG) business in the directory for the Minnesota Department of Administration Materials Management website at: <http://www.mmd.admin.state.mn.us/process/search/>. The business also must have one or more of the following designations used in the Department of Administration’s website: (A), (B), (H), (I), or (E). (The legend at the bottom of the directory page of the website provides this information.) Firms identified solely by a (D), (L), (M), (R), or (W) (which represent disabled-owned firms; firms in economically disadvantaged geographic areas; and woman-owned firms) do not meet the definition of an MBE;
- (c) Certified by the Central Certification Program (CERT) as an MBE (as that term is used by CERT) and found in the CERT directory. The CERT directory will be made available by the Authority.

- 3.2 “WBE” means a Minnesota-based business that that meets one or more of the following criteria:
- (a) Certified by the Minnesota Uniform Certification Program (“MUCP”) as a WBE (as that term is used by MUCP) and found in the MUCP directory at: <http://mnucp.metc.state.mn.us/>;
  - (b) Certified by the Minnesota Department of Administration and classified as a Targeted Group (TG) business in the directory for the Minnesota Department of Administration Materials Management website at: <http://www.mmd.admin.state.mn.us/process/search/>. The business also must have the (W) designation used in the Department of Administration’s website, denoting a woman-owned business;
  - (c) Certified by the Central Certification Program (CERT) as an MBE (as that term is used by CERT) and found in the CERT directory. The CERT directory will be made available by the Authority.
- 3.3 “Targeted Business” means an MBE or WBE.
- 3.4 “Subcontractor” means any entity the Trade Contractor contracts with for any part of Capital Improvement Projects, including without limitation Sub-subcontractors and Suppliers of any tier to the Trade Contractor.
- 3.5 “Subcontract” means any contract entered into by the Trade Contractor or a Subcontractor for any part of Capital Improvement Projects.
- 3.6 “Good Faith Efforts” means the required good faith efforts described in this Targeted Business Program.

#### **Section 4. Achievement of Participation Goals – Targeted Business**

- 4.1 The Authority will require the Trade Contractor to use Good Faith Efforts to achieve the Targeted Business Goals through the Subcontracts entered into between the Trade Contractor and its Subcontractors, which in turn may enter into various agreements with lower-tier Subcontractors.
- 4.2 The Trade Contractor is not required to meet the goals of this Targeted Business Program for each individual Subcontract it enters into. Instead, the Trade Contractor may meet, or make Good Faith Efforts to meet, the goals of this Targeted Business Program by aggregating participation from all of its Subcontractors. As part of its Good Faith Efforts, the Trade Contractor may request participation at different levels from different Subcontractors.
- 4.3 The Trade Contractor may count toward the Targeted Business Goal the value (or a percentage of the value, as discussed below) of the various Subcontractors’

contracts for work performed on Capital Improvement Projects only after the MBE or WBE is certified as such as described in Sections 3.1 and 3.2.

- 4.4 Whether the Trade Contractor achieves the goals of this Targeted Business Program will be evaluated and determined as a Capital Improvement Project progresses and at the end of the Capital Improvement Project based on the total Cost of the Work as defined in the Trade Contract Agreement. If the total dollar amount of MBE and WBE contracts meets or exceeds the established Targeted Business Goal, then the Authority will determine that the goals of this Targeted Business Program have been met.
- 4.5 The Authority will utilize the following guidelines, plus the guidelines in Appendix A, in determining the percentage of WBE/MBE participation that will be counted toward the Targeted Business Goal:
  - (a) The value of work performed by a firm after it has ceased to be certified as an MBE or WBE will not be counted toward the Targeted Business Goal.
  - (b) If an MBE or WBE's certification lapses, the value of work performed by a firm during any period of lapsed certification will not be counted toward the Targeted Business Goal.
  - (c) Only amounts paid to and performed by an MBE or WBE will be counted toward the Targeted Business Goal; participation of a Subcontractor will not be counted until the amount has been paid to the Subcontractor.

## **Section 5. Compliance Monitoring and Reporting – Targeted Business**

- 5.1 The Authority intends to monitor the Trade Contractor's efforts to achieve the Targeted Business Goal. The Trade Contractor will cooperate with the Authority's monitoring plan and requests as outlined in this section.
- 5.5 Solicitation Phase – Trade Contractor. During the solicitation phase (between each Subcontract's pre-bid meeting and the bid due date), the Trade Contractor shall:
  - (a) Comply with the Trade Contractor's Targeted Business Enterprise Plan required by the Trade Contract Agreement; and
  - (b) Submit all relevant documentation to the Authority, including without limitation:
    - (i) The Targeted Business Commitment and Information form (attached hereto as Exhibit A) for each bid, which shall identify by name the WBE or MBE that is committed to be used on the specific

Subcontract; the scope of work; and the contract value or percentage of total Subcontract amount represented by the WBE or MBE; and

(ii) The Subcontractor Information Form (attached hereto as Exhibit B), signed by the committed WBE or MBE and the bidder identifying the work and contract value at time of bid.

5.6 Post-Bid Review Phase – Authority. During the post-bid review phase (between each Subcontract’s bid due date and completion of Exhibit A), the Trade Contractor shall:

(a) Provide Good Faith Effort documents and a plan to carry out Good Faith Efforts during the construction phase;

(b) Request any adjustments to applicable MBE and WBE contract values based on commercially useful function determinations, incorrect Targeted Business Goal value calculations, or Targeted Business certification rulings; and

(c) Request review from the Authority of Exhibit A within 14 calendar days of each bid. The Authority will award a Pass/Award, Pass/Waiver, or Fail for each such Exhibit A submitted by the Trade Contractor, based on the following criteria:

(i) Pass/Award – Bidder committed to contract with MBE and WBE firms that meet or exceed each respective goal for that contract. A Pass/Award signifies that the bidder is to continue in the contract award process;

(ii) Pass/Waiver – Bidder did not meet the Targeted Business Goal, but demonstrated sufficient Good Faith Efforts. A Pass/Waiver signifies that the bidder is to continue in the contract award process; or

(iii) Fail – Bidder did not meet the Targeted Business Goals and did not demonstrate sufficient Good Faith Efforts. A Fail signifies that the bidder is not recommended to continue in the contract award process.

5.7 Post-Bid Review Phase – Trade Contractor. During the post-bid review phase (between each Subcontract’s bid due date and completion of the Authority’s review of Exhibit A), the Trade Contractor shall:

(a) Provide to the Authority all requested Good Faith Effort documentation within 3 calendar days of the bid; and

(b) Provide to the Authority a Good Faith Efforts Plan from the Trade Contractor and each selected Subcontractor for the construction phase

within 10 calendar days of the bid. This Good Faith Efforts Plan shall address, among other things, how the Subcontractor and Trade Contractor intend to address changes to anticipated Targeted Business participation including, for example, changes in participation counting made by the Authority during the bid review phase and changes in scope during the construction phase.

- 5.9 Construction Phase – Trade Contractor. During the construction phase (between the award of each Subcontract and final payment), the Trade Contractor shall:
- (a) Provide one point of contact to the Authority for the construction phase of the Project;
  - (b) Actively participate in documenting Good Faith Efforts and monitoring;
  - (c) Work to identify, prevent, and resolve contract-related issues with Targeted Business concerns on the Project;
  - (d) Identify all Targeted Business work for each monthly Application for Payment in a timely and efficient manner, as more specifically described in Section 7.9(f);
  - (e) Enter applicable data, including payment data, in the LCP Tracker system operated by the City of Minneapolis Department of Human Rights or other system designated by the Authority; and
  - (f) Submit to the Authority on a monthly basis complete and accurate Targeted Business utilization data including, without limitation, the following:
    - (i) Total Project Cost of the Work;
    - (ii) Total Value of approved Contract Revisions;
    - (iii) Total Value of approved Change Orders to each Subcontractor and Targeted Business;
    - (iv) Time period for which the monthly report covers. This period shall begin on the first day of each month and end on the last day of each month;
    - (v) Total of all Applications for Payments made by the Trade Contractor to the Authority as of the last day of the reporting period;
  - (vi) Total payments received by the Trade Contractor from the Authority as of the last day of the reporting period;

- (vii) Name of each WBE, MBE, and VBE the Trade Contractor and/or Subcontractor has committed to use at time of respective bid;
- (viii) Identification of Subcontractors that have hired each WBE, MBE, and VBE;
- (ix) Identification of each business as a WBE, MBE, and VBE;
- (x) Total contract value for each committed Subcontractor, WBE, MBE, and VBE;
- (xi) Changes, if applicable, to the total contract value for each committed Subcontractor, WBE, MBE, and VBE;
- (xii) Identification of WBE, MBE, and VBE as a Contractor, Supplier, or Broker;
- (xiii) Value of work or supplies claimed by the WBE, MBE, and VBE during the report period;
- (xiv) Value of work or supplies to be counted towards the respective WBE, MBE, and VBE goal during the report period; and
- (xv) Total value of work or supplies invoiced to date and paid to date for each WBE, MBE, and VBE, which information the Authority may require the Trade Contractor to submit to the Authority on a form substantially similar to the Trade Contract Agreement Equity Plan Progress Report attached hereto as Exhibit C, which form the Authority may amend, from time to time, in its sole discretion.

**Section 6. Participation Counting – Targeted Business**

- 6.1 Guidelines regarding how MBE and WBE participation is counted toward the Targeted Business Goal are described in Appendix A.

**Section 7. Commercially Useful Function – Targeted Business**

- 7.1 The Authority will determine whether an MBE or WBE is performing a commercially useful function (“CUF”) as described in Appendix B.

**Section 8. Good Faith Efforts – Targeted Business**

- 8.1 The Trade Contractor’s responsibility to provide Good Faith Efforts documentation, a Good Faith Efforts Plan, and otherwise engage in Good Faith

Efforts as described by the Targeted Business Plan are independent obligations and are required even if the Targeted Business Goals are met.

- 8.2 The Authority will determine whether the Trade Contractor has made Good Faith Efforts to achieve the Targeted Business Goal as described in Appendix C.

## **Section 9. Consequences of Failure to Meet Goals and Failure to Make Good Faith Efforts – Targeted Business**

- 9.1 At the end of a Capital Improvement Project, and before the Authority makes Final Payment to the Trade Contractor, the Authority shall determine, in the Authority's sole discretion, whether the Trade Contractor met the Targeted Business Goal. If the Trade Contractor fails to meet these goals, the Authority shall also determine, in its sole discretion, whether the Trade Contractor made Good Faith Efforts to meet the Targeted Business Goal.
- 9.2 If the Authority determines the Trade Contractor failed to make Good Faith Efforts to meet the Targeted Business Goal, the Trade Contractor shall be liable to the Authority for the Authority's actual damages for the Trade Contractor's failure to make Good Faith Efforts. The Authority also shall withhold payment to the Trade Contractor as follows:
  - (a) The Authority shall determine whether the Trade Contractor failed to make Good Faith Efforts for the entire Capital Improvement Project or for only a part of it.
  - (b) If the Authority determines the Trade Contractor failed to make Good Faith Efforts for the entire Capital Improvement Project, the Authority shall deduct payment to or assess damages against the Trade Contractor in an amount the Authority deems appropriate.
  - (c) If the Authority determines the Trade Contractor failed to make Good Faith Efforts for only part of the Capital Improvement Project, the Authority shall withhold payment to or assess damages against the Trade Contractor in an amount the Authority deems appropriate..
  - (d) The Authority shall make all determinations in Section 9.2(a)-(c) in the Authority's sole discretion.
- 9.3 Intentionally or recklessly false reporting of Targeted Business data, Good Faith Efforts regarding efforts to achieve Targeted Business goals, or the commercially useful function of reported Targeted Business participation shall be subject to the Minnesota False Claims Act. This liability also flows down and applies to Subcontractors and Suppliers of all tiers to the extent they intentionally or recklessly report similar false data regarding Targeted Business participation on the Project.

## Section 10. Workforce Program

- 10.1 The Authority recognizes the legislature's mandate that the Authority establish construction workforce goals for utilization of women and minorities during construction of a Capital Improvement Project in a percentage at least equal to the current City of Minneapolis goals, and which also includes efforts to include workers from City of Minneapolis zip codes that have high rates of poverty and unemployment.
- 10.2 In furtherance of the intention of such mandate, the Authority finds it appropriate to adopt this Workforce Program to establish construction workforce utilization goals for the construction work performed by the Authority's Trade Contractor and its various Subcontractors for Capital Improvement Projects.
- 10.3 The Authority adopts the following construction workforce utilization goals that have been adopted by the City of Minneapolis and which are based on the underlying data and intent of the workforce goal program established by the Minnesota Civil Rights Act as implemented by the Minnesota Department of Human Rights:
- 32% minority
- 6% female
- ("Workforce Goals")
- These Workforce Goals are subject to change in the Authority's sole discretion based on, for example, the availability of various categories of trade labor, the competition for qualified labor from other concurrent projects, and any changes in the understanding of the supporting data.
- 10.4 The Authority adopts these Workforce Goals because they are the goals adopted by the City of Minneapolis for development projects in the City during the time period 2013 – 2016. The City of Minneapolis, in turn, adopted these goals based on the goals promulgated by the Minnesota Department of Human Rights for Hennepin County.
- 10.5 These goals were first established by the Minnesota Department of Human Rights. The City of Minneapolis then adopted these same goals. Achievement of these goals may be impacted by the nature of the Minnesota workforce, the number of individuals from licensed trades needed for a particular Capital Improvement Project, the number of other large construction projects that will compete for workers with a Capital Improvement Project, and the availability issues these and other factors create.

- 10.6 The Trade Contractor is required to make Good Faith Efforts (as defined below) set forth in Section 12.3 to achieve the Workforce Goals.

**Section 11. Definitions – Workforce. For purposes of the Workforce Program:**

- 11.1 “Minority” has the same meaning as “minority” in the Minnesota Department of Human Rights regulations, as follows:
- (a) Black, persons having origins of any of the Black African racial groups not of Hispanic origin;
  - (b) Hispanic, persons of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race;
  - (c) Asian and Pacific Islander, persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; and
  - (d) American Indian or Alaskan Native, persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.
- 11.2 “Subcontractor” means any entity the Trade Contractor contracts with for any part of a Capital Improvement Project performing work on the job-site. “Subcontractor” also includes Subcontractors of any tier to the Trade Contractor.
- 11.3 “Good Faith Efforts” means the necessary and reasonable efforts to meet the Workforce Goals, including without limitation the Good Faith Efforts described in this Workforce Program and Section 15.

**Section 12. Affirmative Action Certificate - Workforce.**

- 12.1 The Trade Contractor and all Subcontractors are required to submit affirmative action plans and obtain a certificate of compliance from the Authority, the City of Minneapolis Department of Human Rights, the Minnesota Department of Human Rights, or other governmental body as determined by the Authority in its sole discretion, pursuant to Minn. R. 5000.3560, subp. 1(A). The Trade Contractor and all its Subcontractors must maintain certificates of compliance throughout a Capital Improvement Project, regardless of any exemptions that might otherwise apply under the Minnesota Department of Human Rights regulations.

**Section 13. Compliance & Counting- Workforce.**

- 13.1 The extent to which hours worked on a Capital Improvement Project by minority and female workers count toward the Workforce Goals shall be determined as provided by Appendix D.

#### **Section 14. Monitoring and Reporting – Workforce.**

- 14.1 The Trade Contractor is responsible for accurately collecting data from its own workforce of minorities and women and those of its Subcontractors of all tiers and promptly and regularly reporting it to the City and other governmental entities as directed by the Authority. The Trade Contractor shall collect and report the data in a manner and form prescribed by the City or other governmental entities.
- 14.2 The Authority may request certain compliance and auditing services from the City of Minneapolis and the Minnesota Department of Human Rights. These services may include, for example, spot checking and on-site-auditing of the workforce utilization numbers reported by the Trade Contractor and its Subcontractors of all tiers.
- 14.3 The Trade Contractor must provide, at minimum, a report containing the following information on a monthly and cumulative basis throughout a Capital Improvement Project, separated by Subcontract, by trade, and supported by certified payrolls including every person who works on the Capital Improvement Project jobsite as part of the Trade Contract Agreement:
  - (a) total hours of employment on the Capital Improvement Project;
  - (b) total hours of employment of women;
  - (c) total hours of employment of minorities; and
  - (d) employee zip codes.

#### **Section 15. Good Faith Efforts – Workforce.**

- 15.1 The Trade Contractor's responsibility to use Good Faith Efforts as described by the Workforce Program is an independent obligation and is required even if the Workforce Goals are met.
- 15.2 The Authority will determine whether the Trade Contractor has made Good Faith Efforts to achieve Workforce Goals as described in Appendix E.

#### **Section 16. Consequences of Failure to Meet Goals and Failure to Make Good Faith Efforts – Workforce.**

- 16.1 Intentionally or recklessly false reporting of workforce data, good faith efforts regarding efforts to achieve workforce goals, or the commercially useful function of reported workforce labor shall be subject to the Minnesota False Claims Act. This liability also flows down and applies to the Trade Contractor's Subcontractors of all tiers to the extent they intentionally or recklessly report

similar false data regarding workforce participation by minorities or women on the Capital Improvement Project.

- 16.2 If the Trade Contractor or its Subcontractors of any tier do not utilize Good Faith Efforts to achieve the Workforce Goal, then the Trade Contractor (a) shall be liable for paying the Authority the costs of the Authority's compliance enforcement in making its Good Faith Efforts determination and (b) shall cure the Workforce Goal shortfall to the extent caused by its lack of Good Faith Efforts. If the Trade Contractor cannot cure the shortfall caused by its lack of Good Faith Efforts due to the stage of construction and/or its schedule status on the Capital Improvement Project, the Authority may impose appropriate damages on the Trade Contractor in its sole discretion, which damages may constitute without limitation, paying the Authority the cost to train the number of minorities and women that reasonably would have been employed on the Capital Improvement Project but for the Trade Contractor's lack of Good Faith Efforts, so that they are trained and available to work on future projects. The cost of proper training shall be determined by the Authority in its sole discretion, which determination will be final and binding on the Trade Contractor unless arbitrary and capricious.

### **Section 17. Data Collection and Reporting**

- 17.1 The Trade Contractor and Subcontractors shall promptly and regularly comply with the Authority's requests to submit data, in electronic form or otherwise as directed by the Authority, regarding the Targeted Business Program, the Workforce Program, and other aspects of this Equity Plan.

### **Section 18. Veterans Inclusion Program**

- 18.1 For purposes of the Veterans Inclusion Program, a small veteran-owned business ("VBE") is a firm certified as a Service-Disabled Veteran Owned Small Business (SDVOSB) or a Veteran Owned Small Business (VOSB) by the United States Department of Veteran Affairs. Each VBE also must be a Minnesota-based business.
- 18.2 To encourage participation in the Project by VBEs, during the pre-solicitation phase (between the award of the Trade Contract Agreement and the pre-bid meeting(s) for each Subcontract), the Trade Contractor will:
- (a) work with business support organizations in the veteran community to ensure Minnesota-based VBEs are aware of opportunities on the Project;
  - (b) participate in a Project information session meeting for the particular Capital Improvement Project designed for VBEs; and
  - (c) solicit VBEs to participate in the Project's small "meet and greet" sessions.

- 18.3 To encourage participation in the Project by VBEs, during the pre-solicitation phase (between the award of the Trade Contract Agreement and the pre-bid meeting(s) for each Subcontract), the Trade Contractor shall:
- (a) participate in Project information session meetings designed for VBEs; and
  - (b) solicit VBEs to participate in the Project’s small “meet and greet” sessions.
- 18.4 During the construction phase (between the award of each Subcontract and final payment), the Trade Contractor and the Authority will monitor, count, and report VBE participation in the Project in the same manner as the Targeted Business Program as outlined in the Equity Plan, including without limitation Section 7.9(f) and Appendices A, B, and C.
- 18.5 To encourage participation in the Project by veterans as part of the construction workforce, the Trade Contractor will collaborate with and communicate Project job and training opportunities to veterans organizations, such as Minnesota Department of Veteran Affairs, Helmets to Hardhats, and other veterans organizations that provide employment and training assistance.
- 18.6 To encourage participation in the Project by veterans as part of the construction workforce, the Trade Contractor shall:
- (a) Collaborate with any employment assistance firm(s) the Authority may hire and the employment program(s) the Authority may establish to increase recruitment and training of Minnesota veterans for the Project; and
  - (b) Identify veterans in the data, including payment data, entered into the LCP Tracker system operated by the City of Minneapolis Department of Civil Rights or other system designated by the Authority.



## **APPENDIX A - Targeted Business Participation Counting**

- (a) When a Targeted Business participates in a contract, count only the value of the work actually performed by the Targeted Business toward the Targeted Business Goal.
  - (1) Count the entire amount of that portion of a contract that is performed by the Targeted Business's own forces. Include the cost of supplies and materials obtained by the Targeted Business for the work of the contract, including supplies purchased or equipment leased by the Targeted Business (except supplies and equipment the Targeted Business Subcontractor purchases or leases from the Trade Contractor or its affiliate).
  - (2) Count the entire amount of fees or commissions charged by a Targeted Business 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 contract, toward Targeted Business Goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
  - (3) When a Targeted Business subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward Targeted Business goals only if the Targeted Business's Subcontractor is itself a Targeted Business. Work that a Targeted Business subcontracts to a non-Targeted Business firm does not count toward Targeted Business Goal.
- (b) When a Targeted Business performs as a participant in a joint venture, 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 Targeted Business performs with its own forces toward Targeted Business Goal.
- (c) Count expenditures to a Targeted Business contractor toward Targeted Business Goal only if the Targeted Business is performing a commercially useful function on that contract.
  - (1) A Targeted Business 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 Targeted Business 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 Targeted Business is performing a commercially useful function, 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 Targeted Business credit claimed for its performance of the work, and other relevant factors.

- (2) A Targeted Business 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 funds are passed in order to obtain the appearance of Targeted Business participation. In determining whether a Targeted Business is such an extra participant, examine similar transactions, particularly those in which Targeted Businesses do not participate.
  - (3) If a Targeted Business 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 Targeted Business 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, presume that it is not performing a commercially useful function.
  - (4) When a Targeted Business is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the Targeted Business may present evidence to rebut this presumption, including normal industry practices for the type of work involved.
- (d) Use the following factors in determining whether a Targeted Business trucking company is performing a commercially useful function:
- (1) The Targeted Business must 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 Targeted Business goals.
  - (2) The Targeted Business must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
  - (3) The Targeted Business receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
  - (4) The Targeted Business may lease trucks from another Targeted Business firm, including an owner-operator who is certified as a Targeted Business. The Targeted Business who leases trucks from another Targeted Business receives



credit for the total value of the transportation services the lessee Targeted Business provides on the contract.

- (5) The Targeted Business may also lease trucks from a non-Targeted Business firm, including from an owner-operator. The Targeted Business who leases trucks from a non-Targeted Business is entitled to credit for the total value of transportation services provided by non-Targeted Business lessees not to exceed the value of transportation services provided by Targeted Business-owned trucks on the contract. Additional participation by non-Targeted Business lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. \*The Trade Contractor or Subcontractor is not required to obtain additional permission to use this “matching manner” method of counting participation described in this paragraph (d)(5).

Example to this paragraph (d)(5): Targeted Business Firm X uses two of its own trucks on a contract. It leases two trucks from Targeted Business Firm Y and six trucks from non-Targeted Business Firm Z. Targeted Business credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, Targeted Business credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

- (6) For purposes of this paragraph (d), a lease must indicate that the Targeted Business has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the Targeted Business, so long as the lease gives the Targeted Business absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the Targeted Business.
  - (7) All Targeted Business suppliers and trucking firms on the Project are required to participate in a semi-annual Targeted Business Counting Check with the Authority to ensure accurate reporting.
- (e) Count expenditures with Targeted Businesses for materials or supplies toward Targeted Business goals as provided in the following:



- (1)
  - (i) If the materials or supplies are obtained from a Targeted Business manufacturer, count 100 percent of the cost of the materials or supplies toward Targeted Business Goal.
  - (ii) For purposes of this paragraph (e)(1), 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 by the specifications.
- (2)
  - (i) If the materials or supplies are purchased from a Targeted Business regular dealer, count 60 percent of the cost of the materials or supplies toward Targeted Business Goal.
  - (ii) 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 or leased to the public in the usual course of business.
    - (A) 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.
    - (B) 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 this paragraph (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 agreement and not on an ad hoc or contract-by-contract basis.
    - (C) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).



- (3) With respect to materials or supplies purchased from a Targeted Business which is neither a manufacturer nor a regular dealer, 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 Targeted Business goals, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward Targeted Business goals.
- (4) Fill, sand, gravel and other natural materials are counted at the supplier value of 60% regardless of pit of origin ownership.
- (5) A Targeted Business certified as a supplier may perform both the supplier role and broker role under the same contract. Items purchased directly and solely by the Targeted Business supplier from the manufacturer will be counted at the supplier value of 60%. Items purchased directly and solely by the Targeted Business supplier from another supplier or wholesaler will only count at the broker rate of 5%.
- (6) Specialized or “to specification” equipment purchases are presumptively considered only able to be brokered.
- (7) A Target Business certified as a broker may only count at the broker rate of 5% for all project work.
- (8) The determination between supplier and broker action may change for Targeted Business suppliers from bid/commitment phase to construction phase.
- (9) A Targeted Business contractor who performs the installation, connection, application of materials may only count the cost of supplies or materials towards the goal if:
  - (i) The Targeted Business purchases the supplies or materials itself and
  - (ii) Industry practice supports and is structured for the supplies or materials to be purchased by the Targeted Business, including without limitation structural steel, rebar, and paint and other coatings.



- (f) Participation by a woman-owned Targeted Business certified as an MBE counts only toward the Targeted Business Goal for MBEs, even if the MBE is certified as a WBE or is able to be certified as a WBE.



## **APPENDIX B – Targeted Business Commercially Useful Function (“CUF”)**

### **CUF Site Visits**

- (a) The Trade Contractor will perform at least one site visit for each Targeted Business performing under a contract on the Project for the purpose of determining whether the Targeted Business is performing a “commercially useful function” (“CUF”) as described in Appendix A.
- (b) The Trade Contractor will conduct at a minimum one site visit for each Targeted Business to determine that the Targeted Business is providing a CUF. The Trade Contractor will document each site visit and applicable support documentations.
- (c) CUF site visits are intended to be performed on the construction site or applicable place of business. In situations when it is not feasible to perform the CUF site visit on location, the Targeted Business will provide all documentation to demonstrate CUF compliance.
- (d) CUF site visits documentation includes photographs, brief interviews with staff, correspondence, and copies of business transactions.
- (e) The CUF site visit will be documented in a standardized form and retained by the Trade Contractor and sent to the Authority.
- (f) Data from the CUF form sent by the Trade Contractor to the Authority will be retained by the Authority for auditing purposes. CUF Review
- (g) The Authority may conduct a CUF Review if the Authority has concerns whether a Targeted Business is performing a commercially useful function.
- (h) The Authority performs a CUF Review by collecting data, including site visit reports, photographs, and interview information. The Authority then analyzes the data and produces a CUF Finding which may, in the Authority’s discretion, provide adjustments to whether and how the Targeted Business’ participation is counted toward the Targeted Business Goals.



### **APPENDIX C – Targeted Business Good Faith Efforts**

- (a) The Trade Contractor must make Good Faith Efforts to achieve the Equity Plan’s Targeted Business Goal. Many of the Good Faith Efforts are described in the Plan, including without limitation the monitoring and reporting activities in various phases. This Appendix identifies a non-exclusive list of factors the Authority may consider when determining whether the Trade Contractor has exercised Good Faith Efforts.
- (b) The Authority shall determine if the Trade Contractor has made adequate Good Faith Efforts. If the Trade Contractor fails to make adequate Good Faith Efforts, the consequences are discussed in the Plan.
- (c) Because the Trade Contractor may not be a Targeted Business, the Trade Contractor’s Good Faith Efforts to achieve the Targeted Business Goal also must focus on obtaining participation of Targeted Business firms hired by the Trade Contractor as Subcontractors or qualified joint venture partner.
- (d) The Trade Contractor must make the Good Faith Efforts described herein beginning with its solicitation of potential Subcontractors.
- (e) Documentation. The Authority has developed the forms described in the Plan and may develop such other forms, affidavits, and other documentation the Authority deems appropriate for the Trade Contractor to document its Good Faith Efforts to meet the Targeted Business Goal and allow the Authority to determine whether Good Faith Efforts have been made. The Trade Contractor and its Subcontractors shall complete the forms the Authority requests them to complete.
  - (1) The Authority shall determine what information is required from the Trade Contractor, proposed Subcontractors, or others as the Authority deems appropriate to evaluate the Trade Contractor’s Good Faith Efforts, and shall determine what reviews, examinations and assessments of information are appropriate for such evaluation.
  - (2) Before the Trade Contractor enters into a contract with any Subcontractor, the Trade Contractor must submit to the Authority any forms that the Authority deems appropriate.
  - (3) The Trade Contractor must require its Subcontractors to engage in similar Good Faith Efforts as required by the Authority, and to similarly flow down their Good Faith Efforts requirements to lower tier Subcontractors. References in these



requirements to the Trade Contractor shall also be deemed to refer to its Subcontractors and such lower tier Subcontractors with respect to their obligations to use Good Faith Efforts.

(f) Removal of MBE or WBE

(1) The Trade Contractor shall notify the Authority before the Trade Contractor terminates a contract with a Targeted Business, changes the scope of the Targeted Business's contract, or otherwise releases a Targeted Business from performing work on the Project ("Removal Action").

(2) The Authority will permit the Trade Contractor to take a Removal Action when:

(i) The work committed to the Targeted Business was eliminated or adjusted via approved change order.

(ii) The Authority has verified that the Targeted Business is no longer in business or is unable to perform acceptable work under the contract.

(iii) Any legal situation that impacts the ability for the Targeted Business to perform work.

(iv) The Targeted Business has defaulted on the terms of its Subcontract and can no longer perform the work as required.

(3) To the extent a proper Removal Action is taken by the Trade Contractor, the Trade Contractor must make Good Faith Efforts as described herein to replace those firms with other Targeted Business firms, or otherwise increase Targeted Business participation to offset the loss of Targeted Business participation.

(g) Non-Exclusive List of Factors. In addition to compliance with the various reporting and monitoring requirements described in this Equity Plan or developed by the Authority, the following is a list of non-exclusive factors the Authority may consider in making a determination whether the Trade Contractor has made adequate Good Faith Efforts to meet the Targeted Business Goal:

(1) Soliciting through all reasonable and available means (attendance at pre-bid meetings, advertising and/or written notices) the interest of as many Targeted



Business firms as reasonably possible presently certified in the scopes of work of the contract.

- (2) Soliciting Targeted Business firms in reasonably sufficient time prior to bid opening or the proposal deadline to allow Targeted Business firms to respond to solicitations, or allowing sufficient time for Targeted Business firms to respond to solicitations prior to finalizing selections of Subcontractors. The Trade Contractor must determine with certainty if the Targeted Business firms are interested by taking and documenting appropriate steps to follow up on initial solicitations.
- (3) Selecting portions of the work to be performed by Targeted Business firms in order to increase the likelihood that the participation goals will be achieved. This includes, where appropriate, breaking contract work into smaller units to facilitate Targeted Business participation.
- (4) Providing interested Targeted Business firms with adequate information about the requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (5) Negotiating in good faith with interested Targeted Business firms and providing written documentation of such negotiation with each such business. In determining whether the Trade Contractor negotiated in good faith, the Authority may consider a number of factors including price, scheduling and capabilities as well as the contract goal.
- (6) The fact that there may be some additional costs involved in finding and using Targeted Business firms is not itself sufficient reason for the Trade Contractor's failure to meet the participation goals as long as such costs are reasonable.
- (7) If requested by a solicited Targeted Business firm, the Trade Contractor must make reasonable efforts to assist such Targeted Business firms in obtaining financing, training, or insurance as may be appropriate for their work on the Project, provided that the Trade Contractor need not provide financial assistance toward this effort.
- (8) Effectively using the services of minority/woman community organizations; minority/woman contractors' groups; local, state and federal business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the solicitation and placement of Targeted Business firms.



## **APPENDIX D – Workforce Compliance and Counting**

Pursuant to Section 12.7 of the Equity Plan, the Authority may seek advice from the City of Minneapolis and the Minnesota Department of Human Rights for the purpose of establishing additional policies, procedures, and forms for the workforce program, including compliance and counting.

Until the Authority, in its sole discretion, adopts specific policies, procedures, and forms regarding how workforce participation by minorities and women is counted toward the Workforce Goal, the Authority will use the following guidelines:

- (a) The Workforce Goal is expressed as a percentage of the total hours worked by individuals performing eligible work (“Workforce Work”) as part of the Construction Services Agreement, whether the workers are employed by the Trade Contractor or Subcontractors of any tier;
- (b) Workforce Work means work performed on the Project job-site; and
- (c) Every hour of Workforce Work performed by an eligible minority or woman counts toward the Workforce Goal.
- (d) Every hour of Workforce Work performed by an eligible minority woman counts toward both the minority Workforce Goal and the female Workforce Goal.



## **APPENDIX E – Workforce Good Faith Efforts**

- (a) The Trade Contractor must make Good Faith Efforts to achieve the Equity Plan's Workforce Goal. Many of the Good Faith Efforts are described in the Plan, including without limitation cooperation with the monitoring and reporting activities. This Appendix identifies certain minimum requirement for Good Faith Efforts as well as a list of additional non-exclusive factors the Authority may consider when determining whether the Trade Contractor has exercised Good Faith Efforts.
- (b) The Trade Contractor is required to take the following steps as part of its Good Faith Efforts:
  - (1) Make a good faith effort to maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Trade Contractor's employees are assigned to work. The Trade Contractor must specifically ensure that all lead supervisors, superintendents, and other on-site supervisory personnel are aware of and carry out the Trade Contractor's obligation to maintain such a working environment, with specific attention to minority or female persons working at such sites or in such facilities.
  - (2) Establish and maintains a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - (3) Utilize the Construction Works database to maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each person. If the person was sent to the union hiring hall for referral and was not referred back to the Trade Contractor by the union or, if referred, not employed by the Trade Contractor, this must be documented in the file with the reason therefore, along with whatever additional actions the Trade Contractor may have taken.
  - (4) Provide immediate written notification to the Authority when the union or unions with which the Trade Contractor has a collective bargaining agreement has not referred to the Trade Contractor a minority person or woman sent by the Trade Contractor, or when the Trade Contractor has other information that the union referral process has impeded the Trade Contractor's efforts to meet its obligations.



- (5) Develop on-the-job training opportunities and/or participate in and pay for training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the state of Minnesota. The Trade Contractor must provide notice of these programs to the sources compiled under Paragraph (b)(2).
- (6) Disseminate the Trade Contractor's equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Trade Contractor in meeting its equal employment opportunity obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company equal employment opportunity policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (7) Review, at least annually, the company's equal employment opportunity policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general lead supervisors, etc., prior to the first day of construction work at any job site. A written record must be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the Trade Contractor's equal employment opportunity policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Trade Contractor's equal employment opportunity policy with other contractors and Subcontractors with whom the Trade Contractor does or anticipates doing business.
- (9) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs, including zip codes in the City of Minneapolis with high rates of poverty and unemployment. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source the Trade Contractor must send



written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- (10) Encourage present minority and female employees to recruit other minority persons and women.
  - (11) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the equal employment opportunity policy and the Trade Contractor's obligations under these specifications are being carried out.
  - (12) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy.
  - (13) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - (14) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Trade Contractor's equal employment opportunity policies and affirmative action obligations.
- (c) The following is a list of additional non-exclusive factors the Authority may consider when determining whether the Trade Contractor has exercised good faith efforts:
- (1) Timely submission of compliance review reports;
  - (2) Trade Contractor's cooperation with on-site compliance reviews and audits;
  - (3) Trade Contractor's compliance with making available records or other information as required by the Workforce Program;
  - (4) Participating in voluntary associations which assist in fulfilling one or more of their good faith obligations in Paragraphs (b)(1) to (b)(14). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Trade Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations provided that the Trade Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and



women in the industry, ensures that the concrete benefits of the program are reflected in the Trade Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Trade Contractor. The obligation to comply, however, is the Trade Contractor's and failure of such a group to fulfill an obligation must not be defense for the Trade Contractor's noncompliance.

- (d) The Authority also may consider whether the Trade Contractor takes prompt corrective action if and when it becomes aware that any of the following conditions exist with regard to its workforce:
- (1) underutilization of women or minorities in any job group;
  - (2) minority or female employees move laterally, vertically, at a lesser rate than nonminority or male employees;
  - (3) a selection process eliminates minorities or women at higher rate than nonminority or male employees;
  - (4) pre-employment inquiries and application forms do not satisfy state law requirements;
  - (5) descriptions of jobs do not accurately reflect functions involved;
  - (6) selection procedures are not valid predictors of job performance;
  - (7) disproportionately high rejection of women or minorities by hiring supervisors;
  - (8) women, minorities, and disabled persons who are not participating in company-sponsored activities;
  - (9) segregation still exists at some facilities;
  - (10) disparities by minority group status or sex in terms of length of service and type of job held;
  - (11) managers, supervisors, or employees lack interest in company equal employment opportunity policies;
  - (12) underrepresentation of women or minorities in training or career improvement programs;



- (13) techniques for evaluating effectiveness of its equal employment opportunity programs have not been established; and
- (14) inadequate display of equal employment opportunity posters.

## **Exhibit A**



**TRADE CONTRACT AGREEMENT EQUITY PLAN  
TARGETED BUSINESS COMMITMENT AND INFORMATION FORM**

Proposer Company Name: \_\_\_\_\_

**Check ONE of the following:**

**No Targeted Business participation is committed on this project**

**The following Targeted Business (MBE & WBE) participation is committed on this project:**

Firm Name <small>(Legal business name used for Targeted Business certification)</small>	WBE MBE <small>(Check one)</small>		How will firm participate? <small>(subcontractor, consortium, joint venture)</small>	Description of work	Estimated dollar value of participation	Estimated percentage of total bid
	WBE	MBE				

Total WBE % \_\_\_\_\_ Total MBE % \_\_\_\_\_

(Form continued on next page. Use copies of page 1 of this form if additional space is needed to list committed Targeted Businesses and attach such copies to the form.)



**On behalf of the Proposer identified below, I certify that:**

(Check ONE of the following)

No Targeted Business (MBE or WBE) participation is committed on this project.

Proposer is committed to use the Targeted Business contractor(s) listed in this form on this project at the stated percentage(s).

I further certify that I have read the Targeted Business requirements found in the Trade Contract Agreement Equity Plan. I am authorized on behalf of the Proposer to submit this certification to the Minnesota Sports Facilities Authority. This certification is a material representation of fact on which the Authority may rely in awarding the contract.

Proposer Name:

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

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

## **Exhibit B**



**TRADE CONTRACT AGREEMENT AGREEMENT EQUITY  
TARGETED BUSINESS INFORMATION FORM**

Check ONE of the following:

- No Targeted Business will be used by Proposer on this project.
- Targeted Businesses are proposed to be used on this project.

The following is

- 1) a list of Targeted Businesses proposed to be used on the project AND
- 2) a list of Targeted Businesses who were considered by the Proposer for the project but were not selected by the Proposer:

**1) TARGETED BUSINESS PROPOSED TO BE USED ON THE PROJECT:**

Firm Name	Address	Telephone Number

**2) TARGETED BUSINESS WHO WERE CONSIDERED BUT WERE NOT SELECTED:**


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**Minnesota Sports Facilities Authority**

900 South 5th Street, Minneapolis, MN 55415

**TRADE CONTRACT EQUITY PLAN  
TARGETED BUSINESS COMMITMENT AND INFORMATION FORM**

Firm Name	Address	Telephone Number

(Form continued on next page. Use copies of page 1 of this form if space is needed to list additional Targeted Businesses and attach such copies to the form.)



## CERTIFICATION

On behalf of the Proposer identified below, I certify that the information provided in this form is true and correct.

Proposer  
Name:

---

B y :

D a t e :

---

Name:  
Title:

---

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END OF DOCUMENT

## **Exhibit C**

# TCA Equity Plan Progress Report\*

1. Project #:		9. Original Contract Amount:	
2. Project Title:		10. Change Orders To Date:	
3. Construction Trade		11. Revised Contract Amount:	\$0.00
4. Type of Services:		12. Total Earned To Date:	
5. Contract #:		13. Contract Dollars Remaining:	\$0.00
6. Contract Award Date:		14. Amount Paid to Date:	
7. Payment Claim #:		15. Percent Paid to Date:	
8. Progress Report #:			

PROJECT GOAL 11% WBE 9% MBE	CONTRACT COMMITMENT ___% WBE ___% MBE		
Reporting Period: From ___ to ___		___ Interim Report	___ Final Report

A) W/MBE Subcontractor (SEE INSTRUCTION 1)	B) \$\$ Amount of Original W/MBE	C) Non- W/MBE Sub- contractor	D) \$ Amount to Non- W/MBE	E) \$ Amount in Change Orders to W/MBE Contract	F) Total W/MBE Contract \$\$ Amount	G) \$\$ Amount to be paid to W/MBE	H) \$\$ Amount Paid To W/MBE	I) W/MBE%
					\$0.00			#DIV/0!
					\$0.00			#DIV/0!
					\$0.00			#DIV/0!
					\$0.00			#DIV/0!
					\$0.00			#DIV/0!
					\$0.00			#DIV/0!
	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Total W/MBE Contract \$\$ Amount as % of Total Contract Amount (#11):</b>								#DIV/0!
<b>\$\$ Amount Paid to W/MBE To Date as % of Total Contract Amount Paid To Date (#14)</b>								#DIV/0!

**Explanation if W/MBE Goal Not Being Met or Other Comments:** \_\_\_\_\_ **Total W/MBE %** \_\_\_\_\_

Signature:		Date:	
Title:			

**INSTRUCTIONS:**

1. List each W/MBE Subcontractor only once. Insert appropriate information in Columns A), B), E), G), and H).
2. Complete Columns C) and D) only for each non-W/MBE Subcontractor hired by the W/MBE Subcontractor.
3. Column D) shall include all W/MBE Change Order amounts passed along to Non-W/MBE.

**Authority Representative Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

\*Note that formatting may change.