



## CITY OF ATLANTA

SUITE 1900  
55 TRINITY AVENUE, SW  
ATLANTA, GA 30303  
(404) 330-6204 Fax: (404) 658-7705  
Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

DEPARTMENT OF PROCUREMENT

Angela M. Hinton  
Interim Chief Procurement Officer  
[ahinton@atlantaga.gov](mailto:ahinton@atlantaga.gov)

Kasim Reed  
Mayor

June 20, 2017

Dear Proponents:

**Re: FC-9828, Commercial Food and Beverage Retail at Atlanta City Plaza – Suite A and Suite C**

Attached is one (1) copy of **Addendum No. 1**, which is hereby made a part of the above-referenced project.

For additional information, please contact the following personnel for the respective solicitation: FC-9828, Jessica A. Boston, Contracting Officer, at (404) 330-6903, or via email at [jaboston@atlantaga.gov](mailto:jaboston@atlantaga.gov).

Sincerely,

Angela M. Hinton

AMH:jab



**Addendum No. 1**

**Re: FC-9828, Commercial Food and Beverage Retail at Atlanta City Plaza – Suite A  
and Suite C**

June 20, 2017

Page 2

This Addendum forms a part of the Request for Proposal and modifies the original solicitation package and any prior addenda as noted below.

- The Pre-Proposal Conference will be held **Tuesday, June 27, 2017 at 2:30 p.m.**
- An optional site tour is scheduled for **Tuesday, June 27, 2017**, immediately following Pre-Proposal Conference. Site Visits are not mandatory but highly encouraged. Please note, that oral answers to questions during any scheduled site visit is not authoritative.

**Proponent who will be attending the site tour must complete the attached Site Tour form and return via-email to [jaboston@atlantaga.gov](mailto:jaboston@atlantaga.gov) or hand deliver prior to attending site tour.**

- **Delete Appendix A, Office of Contract Compliance Goals;  
Replace with Appendix A, Office of Contract Compliance Goals attached.**

Proposals are due **Wednesday, July 19, 2017**, must be time stamped in no later than 2:00 p.m., and must be delivered to the address below:

Angela M. Hinton  
Interim Chief Procurement Officer  
Department of Procurement  
55 Trinity Avenue, S.W.  
Suite 1900  
Atlanta, Georgia 30303

\*\*\*\*\*

**\*\* All other information remains unchanged \*\***



**Addendum No. 1**

**Re: FC-9828, Commercial Food and Beverage Retail at Atlanta City Plaza – Suite A  
and Suite C**

June 20, 2017

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**Acknowledgment of Addendum No. 1**

Proponents must sign below and return this form with Proposals to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303 as acknowledgment of receipt of this Addendum.

This is to acknowledge receipt of Addendum No. 1 for **Re: FC-9828, Commercial Food and Beverage Retail at Atlanta City Plaza – Suite A and Suite C** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Legal Company Name of Proponent

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**SITE TOUR RELEASE FORM**

**FC-9828, Commercial Food and Beverage Retail at Atlanta City Plaza Suite A and Suite C**

**Release and Waiver:** Prospective Proponent (“**Proponent**”) agrees to accept and assume all risks arising directly or indirectly out of any visit or entry by Proponent or its Authorized Persons to the Atlanta City Plaza Retail Space (hereinafter, called “**Facilities**”). Proponent agrees that the City of Atlanta (the “**City**”) and its agents, employees and consultants shall have no duty of care to keep the Facilities safe for entry or use. Proponent agrees that the City does not, grant its permission, assume responsibility or incur liability for any injury, death, loss or damage to any person or property arising out of the activities of Proponent or its Authorized Persons on the Facilities, and Proponent hereby releases the City and its employees, consultants and other agents from any and all actions, causes of action, suits, claims, liabilities, losses, damages, judgments and executions of any kind arising after the date hereof that Proponent, its Authorized Agents, or their respective employees, representatives, affiliates and/or agents may have by reason of, arising out of, related to, or resulting from any visit, entry, inspection, study, test or other action by Proponent or its Authorized Persons.

**Indemnity:** Notwithstanding any general liability or other insurance that may be maintained by Proponent, Proponent shall defend, indemnify and hold the City harmless (using counsel reasonably satisfactory to the City) from any and all actions, causes of action, suits, claims, liens, demands, liabilities, losses, costs, expenses (including, without limitation, reasonable attorneys’ fees) and damages of any kind or nature that the City sustains or incurs by reason of or in connection with any visit, entry, inspection, study, test or other actions by Prospective Proponent or its Authorized Persons; provided, however, that the indemnity obligations of Proponent shall not apply to any liability of damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence or willful misconduct of the City and its agents or employees.

**Confidential Information:** Proponent recognizes that their employee and/or agent may be exposed to Confidential Information and that the City desires to prevent unauthorized disclosure of such information. Except as required by law or by a court of competent jurisdiction, each party agrees that it will not disclose any Confidential Information of the other party and further agrees to take appropriate action to prevent such disclosure by its employees or agents.

**PROSPECTIVE PROPONENT:**

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

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

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

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

Telephone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_



## CITY OF ATLANTA

SUITE 1700

55 TRINITY AVENUE, SW

ATLANTA, GA 30303

(404) 330-6010 Fax: (404) 658-7359

Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

Kasim Reed  
Mayor

OFFICE OF CONTRACT COMPLIANCE

Larry Scott

Director

[lscott@atlantaga.gov](mailto:lscott@atlantaga.gov)

June 14, 2017

**RE: Project No.: FC- 9828, Commercial Food and Beverage Retail Space at Atlanta City Plaza Suite A and C**

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance (OCC) information is an integral part of every eligible City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including Small Business Enterprises (SBE) opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goals for SBE participation for this project and the SBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

**The City of Atlanta looks forward to the opportunity to do business with your company.**

FC-9828, Commercial Food and Beverage Retail  
Space at Atlanta City Plaza – Suite A and Suite C  
Addendum No. 1 Revision

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**CITY OF ATLANTA**  
**SMALL BUSINESS OPPORTUNITY PROGRAM**  
**POLICY STATEMENT**

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis size as it relates to revenue and number of employees. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed its' various diversity inclusion programs. The purpose of the Small Business Opportunity Program is to ensure that the City of Atlanta has a robust race-neutral approach to promoting full and equal business opportunity for all persons doing business with the City of Atlanta, to promote commerce by assisting Small Business Enterprises (SBEs) to actively participate in the City's procurement process, and ensure that the City of Atlanta utilizes programs that provide it with the best possible resources.

It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of these programs is to mitigate the present and ongoing effects of the past and present discrimination against women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including firms that are Small Business Enterprises themselves must comply with the City of Atlanta's SBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

## **Implementation of SBO Policy**

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for small businesses to compete for business as subcontractors and/or suppliers. A Bidder is eligible to be further considered for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the SBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include **all** subcontractors (both small and non-small business enterprises) to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta SBE certification number and supplier id number as applicable.

For suppliers, the Subcontractor Project Plan must include **all** subcontractors (both small and non-small business enterprises), the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta SBE certification number and supplier id number as applicable.

## **Determination of Non-discrimination During Bid Process**

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1372 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit SBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified SBEs as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit SBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business, certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an SBE, the SBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to change the subcontractor project plan must be submitted prior to any change in the plan or termination of an SBE's contract.



## OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified SBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified SBEs within the relevant NAICS Codes for such Eligible Project.

(a) Receipt of Complaint of Discrimination in the Bid Process

The office of contract compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) Determination of Violation of SBO Process

Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) Office of Contract Compliance Determination of Non-Compliance

When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

### **Small Business Opportunity Program Bid/RFP Submittals**

The Office of Contract Compliance will make any determination of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448 must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

### **Monitoring Of SBO Policy**

Upon execution of a contract with the City of Atlanta, the successful bidder's Subcontractor Project Plan will become a part of the contract between the bidder and the City of Atlanta. The Subcontractor Project Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific EBO information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, require joint check issuance, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Sections 2-1452 and 2-1456.

### **Implementation of EEO Policy**

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

### **Monitoring of EEO Policy**

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

**Equal Business Opportunity SBE GOALS for this Project**

**Project No.: FC-9828, Commercial Food and Beverage Retail Space at Atlanta City  
Plaza  
Suite A and C**

The dominant NAICS code and trade to be engaged for the above referenced solicitation is:

**722310 Food Service Contractors**

The above referenced dominant NAICS code(s) was/were used for the purposes of calculating the appropriate participation goal(s). However, COA certified SBE Prime proponents responding to this solicitation may consider any COA certified SBE firm(s) that perform a commercially useful function in the execution of the project to be eligible for participation credit.

The availability of certified SBE firms for the procurement categories in the various scopes associated with this project is:

**35% SBE**

OCC will count **COA certified SBE participation** in the form of the value of all commercially useful function scopes of work related to the annual operating expenses incurred by the contract awardee in the execution of the contract. Certified SBE subcontracting firms must have a subcontract agreement in place. The above referenced goal will be measured against **total operating expenses inclusive of any change orders and/or miscellaneous modifications** that may occur throughout the life of the project.

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are detailed on page 2 of this document.

## Equal Business Opportunity Program Reminders

1. Certification. It is the prime contractor's responsibility to verify that all SBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance.
2. Reporting. The successful bidder must submit monthly SBO program participation reports to the Office of Contract Compliance in a manner as prescribed by the OCC contract monitor of record.
1. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive. For your convenience, fillable versions of the Appendix A documents are available on the OCC webpage should you require additional pages.
2. SBO/EBO Ordinance. The SBO Program is governed by the provisions of the SBO/EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1356 through 2 - 1480. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
3. Supplier Participation. In order to receive full SBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.
4. OCC Registry of Certified Firms. To access OCC's real time registry of vendors (certified or non-certified), visit our PRISM Compliance Management portal at: <https://pro.prismcompliance.com/default.aspx>. Next, click the drop down arrow under "Visit a Jurisdiction", select "City of Atlanta", and click "go!" Once there, you may search by Industry or Certification to obtain your desired results. You may also go to the website: [www.atlantaga.gov/contractcompliance](http://www.atlantaga.gov/contractcompliance) and scroll down to the section heading "Registry of Certified Firms" Click OCC's quarterly list to access the current directory of certified firms.

**COVENANT OF NON-DISCRIMINATION**

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms SBO-2 and SBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

\_\_\_\_\_  
Signature of Attesting Party

\_\_\_\_\_  
Title of Attesting Party

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the above covenant in my presence.

\_\_\_\_\_  
Notary Public

Seal

**FORM SBO-1**

## SUBCONTRACTOR CONTACT FORM

List *all subcontractors or suppliers* (SBE and Non-SBE Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	SBE Business Ownership (see code below)	SBE Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	SBE Business Ownership (see code below)	SBE Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HABE - Hispanic Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise (M/FBE and DBE Certifications Will NOT Suffice for This Procurement)

Company Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_

Printed Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SMALL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN  
SUBCONTRACTOR/SUPPLIER UTILIZATION**

List all Majority, SBE Certified, and Non-SBE Certified subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NAICS Code	Type of Work to be Performed	Ethnicity of SBE Ownership (see code below)	SBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

**Total SBE%** \_\_\_\_\_

Code: AABE - African American Business Enterprise, HAABE - Hispanic American Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise (M/FBE and DBE Certifications Will NOT Suffice for This Procurement)

**Proponent's Company Name:** \_\_\_\_\_ **Project Name:** \_\_\_\_\_ **FC#:** \_\_\_\_\_  
**Proponent's Contact Number:** \_\_\_\_\_ **Printed Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



(THIS PAGE SHALL BE SUBMITTED FOR EACH SUB FIRM)

LETTER OF INTENT

FC# \_\_\_\_\_

Proponent Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Subcontracting Firm: Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Sub firm Contact Person: Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Firm is performing as:  Non-certified Sub  Certified Sub  Joint Venture Team Member

If Certified, Certification # and Expiration Date: \_\_\_\_\_

Work item(s) to be performed by Sub	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL Diversity% Credit Claimed for this Contractor			

The bidder/offeror is committed to utilizing the above-named Subcontractor firm for the work described above. The estimated participation is as follows:

Sub contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

AFFIRMATION:

The above-named Subcontractor firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)  
\_\_\_\_\_  
(Signature) (Date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

## LETTER OF INTENT

FC# \_\_\_\_\_

**Proponent**                      Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Subcontracting Firm:**      Firm Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Sub firm Contact Person:**      Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

**Firm is performing as:**         Non-certified Sub     Certified Sub     Joint Venture Team Member

If Certified, Certification # and Expiration Date: \_\_\_\_\_

Work item(s) to be performed by Sub	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL Diversity% Credit Claimed for this Contractor			

The bidder/offeror is committed to utilizing the above-named Subcontractor firm for the work described above. The estimated participation is as follows:

Sub contract amount:        \$ \_\_\_\_\_          Percent of total contract: \_\_\_\_\_%

**AFFIRMATION:**

The above-named Subcontractor firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

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

(Print name)
(Title)
  
 \_\_\_\_\_  

(Signature)
(Date)

**\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

## DIVERSITY FIRM TERMINATION/SUBSTITUTION ACKNOWLEDGEMENT FORM

As a participant in an eligible City of Atlanta (COA) diversity program contract, certain restrictions and procedures apply to the termination and substitution of a diversity certified entity by a prime concessionaire or prime contractor, as mandated by federal regulations and City ordinances. These requirements are established by 49 C.F.R. § 26.53(f), code sections 2-1356- 2-1380, and 2-1441- 2-1480 of the COA code of ordinances, as may be amended from time to time.

OCC will not allow a prime concessionaire or prime contractor to substitute or terminate a diversity program certified entity without OCC's prior written consent, which will be granted only upon a written finding of good cause. OCC requires completion of a form document to accompany the reason(s) for the request to terminate and/or substitute, which is available at:

<http://www.atlantaga.gov/modules/showdocument.aspx?documentid=491>

For ease of reference, the federal requirements are quoted below:

49 C.F.R. § 26.53(f)

(1) (i) [OCC] must require that a prime contractor not terminate a DBE/[ACDBE] subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE/[ACDBE] firm) without [OCC's] prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE/[ACDBE] subcontractor with its own forces or those of an affiliate, a non-DBE/[ACDBE] firm, or with another DBE/[ACDBE] firm.

(ii) [OCC] must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE/[ACDBE].

(2) [OCC] may provide such written consent only if [OCC] agree[s], for reasons stated in [OCC's] concurrence document, that the prime contractor has good cause to terminate the DBE/[ACDBE] firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE/[ACDBE] subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE/[ACDBE] subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE/[ACDBE] subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

- (iii) The listed DBE/[ACDBE] subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
  - (iv) The listed DBE/[ACDBE] subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
  - (v) The listed DBE/[ACDBE] subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
  - (vii) [OCC] ha[s] determined that the listed DBE/[ACDBE] subcontractor is not a responsible contractor;
  - (vi) The listed DBE/[ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
  - (vii) The listed DBE/[ACDBE] is ineligible to receive DBE/[ACDBE] credit for the type of work required;
  - (viii) A DBE/[ACDBE] owner dies or becomes disabled with the result that the listed DBE/[ACDBE] contractor is unable to complete its work on the contract;
  - (ix) Other documented good cause that [OCC] determine[s] compels the termination of the DBE/[ACDBE] subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE/[ACDBE] it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE/[ACDBE] contractor was engaged or so that the prime contractor can substitute another DBE/[ACDBE] or non-DBE/[ACDBE] contractor after contract award.
- (4) Before transmitting to [OCC] its request to terminate and/or substitute a DBE/[ACDBE] subcontractor, the prime contractor must give notice in writing to the DBE/[ACDBE] subcontractor, with a copy to [OCC], of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE/[ACDBE] five days to respond to the prime contractor's notice and advise [OCC] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why [OCC] should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), [OCC] may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE/[ACDBE] firms put forward by offerors in negotiated procurements.

The undersigned acknowledges these requirements on behalf of the below-listed entity.

Prime: \_\_\_\_\_

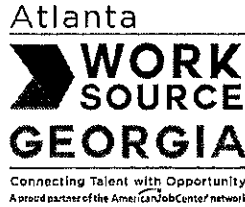
Contract No.: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

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



## FIRST SOURCE JOBS PROGRAM POLICY STATEMENT

The WorkSource Atlanta agency has determined that the First Source Jobs Program is **not applicable** for FC# 9828, Commercial Food and Beverage Retail Space at Atlanta City Plaza Suite A and C.

However, it is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. Although the First Source Jobs Program only applies to Construction Projects, Every contract with the City of Atlanta creates a potential pool of new employment opportunities. All prime contractor proponents are invited to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this, or any COA project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact the WorkSource Atlanta Agency at (404) 546-3000. This City of Atlanta program is not included in or enforceable through 49 CFR Parts 23 and 26.

**Michael E. Robertson**  
**First Source Jobs Program**  
**WorkSource Development Agency**  
**818 Pollard Boulevard**  
**Atlanta, Georgia 30315**  
**(404) 546-3051**