3,4,5 + 6

Late Backup

MINORITY TRADE ASSOCIATION ALLIANCE

October 16, 2012

Mayor Lee Leffingwell
Mayor Pro Tem Sheryl Cole, Place 6
Council Member Chris Riley, Place 1
Council Member Mike Martinez, Place 2
Council Member Kathie Tovo, Place 3
Council Member Laura Morrison, Place 4
Council Member Bill Spelman, Place 5
Austin City Council
Mr. Marc Ott, City Manager

Ref: Items #3,4,5 and 6 Related to ABIA Concessions

Dear Mayor and Austin City Council:

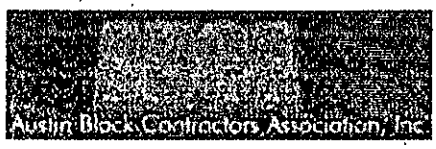
As you know the Minority Trade Association Alliance which includes the Asian Contractor Association, Austin Area Black Contractors Association and the U.S. Hispanic Contractors Association remains committed to ensure that local, small, Minority and Women-owned contractors have equitable opportunities to participate in City of Austin contracts as outlined in the city's MBE/WBE Ordinance and the Disadvantaged Business Enterprise (DBE) Program.

The City established a DBE Program in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 given that the City has received federal financial assistance from DOT. And as a condition of receiving this assistance, the City has signed an assurance that it will comply with DBE requirements on contracting opportunities at ABIA.

Furthermore, within the City's policy and assurance the City has indicated (in part) the following:

- Ensure non-discrimination in the award and administration of opportunities for concessions at ABIA;
- Create a level-playing field on which DBEs can compete fairly for opportunities for concessions;







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- Help remove barriers to the participation of DBEs in opportunities for concessions at ABIA;
- Provide appropriate flexibility at ABIA in establishing and providing opportunities for DBEs.

As part of the City's assurance, implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the agreement with DOT.

Our Alliance would like to point out the following areas of concern on Items 3,4,5 and 6:

1) There are no DBE goals clearly stated in the agenda back-up materials for each of the items related to the ABIA concessions;
2) None of the agenda items provide copies of proposed compliance plans and details regarding the utilization of DBEs in each proposed action item (i.e. Names of DBEs, proposed dollar amounts and percentages for each DBE participating);
3) None of the agenda items provide a history of the DBE utilization and performance to date on DBE participation (i.e. Names of DBEs, dollar amounts and percentages for each DBE utilized to-date)
4) None of the agenda items provide a history of the "race-conscious participation" to date on each of the ABIA concessions as allowed under the DBE program;
5) The DBE Program, like the City's MBE/WBE Program, requires like-kind substitutions if a concessionaire is proposed to be replaced. In 1997, the Austin City Council authorized the concession awards to local DBEs including Armadillo Café listed as ethnic/race specific; in this case, Hispanic-Female. Item #8 on your Council agenda proposes to replace/substitute with another concessionaire that is NOT like-kind.
6) None of the agenda items provide and/or make reference to the evaluation criteria used to determine and/or quantify staff's recommendation and award to new concessionaires;
7) None of the agenda items provide and/or make reference to the standard criteria used to quantify the potential replacement of any or all existing concessionaires and/or criteria used to determine performance standards on any or all concessionaires;

Given that there is no public and/or backup agenda materials on items 3,4,5, and 6, we can only speculate that the staff recommendations are subjective at best. We also firmly believe that ABIA has violated the City and Federal DBE Program requirements.







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Therefore, we are respectfully requesting that the Austin City Council postpone any action on these items and instead, direct City staff to address these outstanding issues.

An immediate response to our findings is greatly appreciated.

Sincerely,

Aletta Banks

Aletta Banks
Asian Contractors Association

Carol Hadnot
Austin Area Black Contractors Association

Frank Fuentes
U.S. Hispanic Contractors Association

Cc: City of Austin MBE/WBE Advisory Committee