GREATER MIAMI EXPRESSWAY

SMALL BUSINESS PARTICIPATION POLICY

AS AMENDED BY THE GMX BOARD ON SEPTEMBER 27, 2023

Policy #2023-21

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ARTICLE 1 - GENERAL PROVISIONS

1-101 Policy, Purposes, Rules of Construction

(A) ***Small Business Policy***

The GMX Board mandates that a minimum of ten percent (10%) of an Agreement valued at more than twenty five thousand dollars ($25,000), awarded to a Prime Consultant/Contractor for Services, is dedicated to Small Businesses, unless specifically exempted by the GMX Board as provided herein.

(B) ***Purposes***

The underlying purposes of this Policy are:

(a) To promote the Miami-Dade County and Monroe County economies by ensuring utilization of Small Businesses by Contractors in the fulfillment of their contractual obligations with GMX;

(b) To ensure fair contracting of Small Businesses by Prime Consultants/Contractors.

(C) ***Interpretation***

This Policy shall be construed liberally and applied to promote its underlying purposes and policies.

(D) ***Equality in Contracting***

GMX, in accordance with the Provisions of Title VII of the Civil rights Act of 1964, as amended, 42 U.S.C. §2000e et. seq., the Florida Civil Rights Act of 1992, as amended, §760.10 et. seq., Fla. Stat. as amended, and other Federal and State discrimination statutes, prohibits discrimination on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. GMX notifies all Respondents and individuals that it requires and encourages equal employment opportunities for minorities and women as employees in the work force.

GMX strongly supports disadvantaged, small, minority and woman owned businesses having full opportunity to submit Bids and Proposals in response to Solicitation Documents issued by GMX and commits that Bidders and Proposers will not be discriminated against on the basis of any protected characteristic recognized by federal and state law.

1-102 Effective Date

This Policy and any amendments shall become effective on the date they are adopted by the GMX Board and at such time this Policy rescinds and supplants all prior polices relating to Small Business Participation.

1-103 Continual Review of Policy

The GMX Board shall review this Policy as necessary, and shall make such recommendations with respect thereto as it deems necessary.

1-104 Revisions to the Policy

The GMX Board may revise this Policy from time to time at its sole discretion.

1-105 Definitions

The words defined in this section shall have the meanings set forth below whenever they appear in this Policy, unless the context in which they are used clearly requires a different meaning or unless defined elsewhere in this Policy. Words in the singular number include the plural, and those in the plural include the singular. Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

Agreement
The GMX form of contract between GMX and a Prime Consultant/Contractor setting forth the obligations of the parties thereunder including, but not limited to, the performance of Services.

Available or Availability
A Firm that, prior to responding to a Solicitation Document, has the ability to provide the required Services under an Agreement by having:

(A) Reasonably estimated, uncommitted capacity and expertise;

(B) All licenses, permits, registrations and certifications;

(C) The ability to obtain bonding that is reasonably required to perform the Contract consistent with normal industry practice; and

(D) The ability to otherwise meet all the requirements of the Solicitation Documents.

Bid/Proposal
A legally binding written quotation, proposal, statement of qualification, letter of interest or other type of offer by a Bidder/Proposer in response to a Solicitation Document to perform the Contract.

Bidder/Proposer
A Firm that submits a Bid to GMX in response to a Solicitation Document.

Business Day
Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and Holidays observed by GMX.

Calendar Day
Every day shown on the calendar, ending and beginning at midnight.

Commercially Useful Function
Contractual responsibility for the execution of a distinct element of the work of an Agreement by a Firm and the carrying out of the contractual responsibilities by actually performing, managing, and supervising the work involved. Acting as a broker is not considered a Commercially Useful Function. The determination of whether an activity is a Commercially Useful Function shall include:

(A) The evaluation of the amount of work subcontracted;

(B) Normal industry practices;

(C) The skills, qualifications, or expertise of the Firm to perform the work;

(D) Whether the Firm's own personnel perform, manage, and/or supervise the work involved; and

(E) Other factors deemed relevant by GMX.

Construction
The process of building, altering, repairing, improving, or demolishing any structure or building, or other improvements of any kind to any real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

Firm
Any corporation, firm, partnership, individual, sole proprietorship, association, joint stock company, joint venture, governmental body, or any other legal entity.

Graduation
When a Small Business has exceeded the specific size limits stated for the applicable Small Business Enterprise Program, based on the required annual gross revenues, and will no longer be considered a Small Business.

GMX Board
The collective individual members of GMX appointed to serve on the GMX Governing Board as provided under the Florida Expressway Authority Act, as amended.

Prime Consultant/Contractor
The successful Bidder/Proposer who contracts directly with GMX for Services.

Procurement or Procurement Process
The competitive process followed by GMX pursuant to the requirements and procedures outlined in the Procurement Policy to solicit, evaluate, select, and award an Agreement for Services.

Professional Services
Those services within the scope of the practice of architecture, professional engineering, landscape architecture, registered land surveying and mapping, as defined by the laws of the state, or those performed by any registered architect, professional engineer, registered landscape architect or registered land surveyor in connection with his professional employment or practice.

Services
The furnishing of labor, time, skill, expertise, or effort by a Firm rather than the furnishing of specific Goods.

Small Business

(A) A firm that is certified and in good standing under either the Miami-Dade County Small Business Program or the Miami Dade Public Schools Program to provide the

Small Business Participation Requirement under the applicable type of certification they are being proposed for.

(B) In instances when the Services do not qualify for certification under the programs listed above in A through C, GMX may establish criteria to qualify a Firm as a Small Business in a particular Procurement Process. Such definition shall be objective and based on the specific industry standards. The established definition shall be included in the applicable Solicitation Documents.

Miami Dade County Certifications

(A) ***Small Business Enterprise – Architecture & Engineering Program***
The Small Business Enterprise Program operated and administered by Miami-Dade County and codified in the applicable section of the Miami-Dade County Code of Ordinances, as may be amended.

(B) ***Small Business Enterprise – Construction Services Program***
The Small Business Enterprise Program operated and administered by Miami-Dade County and codified in the applicable section of the Miami-Dade County Code of Ordinances, as may be amended.

(C) ***Small Business Enterprise - Goods & Services Program***
The Small Business Enterprise Program operated and administered by Miami-Dade County and codified in the applicable section of the Miami-Dade County Code of Ordinances, as may be amended.

Miami Dade Public Schools Certifications (M-DCPS)

(A) ***Micro Business Enterprise - Architecture & Engineering Program***
The Small Business Enterprise Program operated and administered by M-DCPS.

(B) ***Micro Business Enterprise – Professional Services (Non-A/E)***
The Small Business Enterprise Program operated and administered by M-DCPS.

(C) ***Micro Business Enterprise – Good and Services***
The Small Business Enterprise Program operated and administered by M-DCPS.

(D) ***Micro Business Enterprise – Construction Services Program***
The Small Business Enterprise Program operated and administered by M-DCPS

(E) ***Small Business Enterprise - Architecture & Engineering Program***
The Small Business Enterprise Program operated and administered by M-DCPS.

(F) ***Small Business Enterprise – Professional Services (Non-A/E)***
The Small Business Enterprise Program operated and administered by M-DCPS.

(G) ***Small Business Enterprise – Goods and Services***
The Small Business Enterprise Program operated and administered by M-DCPS.

(H) ***Small Business Enterprise – Construction Services Program***
The Small Business Enterprise Program operated and administered by M-DCPS.

Small Business Participation Requirement
The specific percentage of Small Business participation established and required in an Agreement.

Solicitation Documents
Documents released by GMX in various forms soliciting a Bid/Proposal as part of a competitive Procurement Process.

ARTICLE 2 – POLICY EXECUTION

2-101 Application

Except where applicable laws or regulations mandate to the contrary, GMX will evaluate Procurement for Services valued at more than twenty-five thousand dollars ($25,000) prior to advertisement to determine if Small Business participation is appropriate. GMX will consider factors and restrictions herein to determine the Small Business Participation Requirement. GMX will only award to a Firm if that Firm agrees to meet the Small Business Participation Requirement in that Agreement.

2-102 Factors for Small Business Participation Requirement

In determining the Small Business Participation Requirement, GMX will consider the following factors:

(A) Availability of Small Businesses to provide the Services solicited;

(B) Applicability of Local Business Participation Requirement to the Procurement.

2-103 Restrictions for Small Business Participation Requirement

The Small Business Participation Requirement shall not be applied to Procurements under the following circumstances:

(A) Where such application is prohibited by law;

(B) Emergency Procurements;

(C) Sole Source Procurements;

(D) Cooperative Purchasing (Piggy-Back contracts);

(E) Single Source Procurements.

2-104 Implementation of Small Business Participation Requirement

(A) In Agreements where both a Small Business Participation Requirement and a Local Business Participation Requirement are included, the same Firm may not be used to meet both requirements. Firms must only count toward meeting one certification requirement.

(B) A Small Business submitting a Bid/Proposal to GMX as a Prime Consultant/ Contractor in response to a Solicitation Document that includes Small Business Participation Requirement, may meet one hundred percent (100%) of the Small Business Participation Requirement of the Agreement.

(C) GMX will strictly enforce the Small Business Participation Requirement in its Agreements. All Procurements and resulting Agreements will include procedures for both the Firm and GMX to follow in the enforceability of the Small Business Participation Requirement. GMX reserves the right to enforce penalties for non-compliance to include assessing liquidated damages, suspension or debarment to Firms under contract with GMX that do not comply with the Small Business Participation Requirement.

(D) Bidders/Proposers shall demonstrate their ability to satisfy the Small Business Participation Requirement as required on GMX Solicitation Documents. Bidders/Proposers failing to do so may be deemed non-responsive.

(E) At Graduation of a Small Business providing Services under an GMX Agreement, GMX at its sole discretion may either:

(1) Allow the Firm to complete the Agreement and count towards satisfaction of the Small Business Participation Requirement, or

(2) Allow the Firm to continue counting as a Small Business towards satisfaction of the Small Business Participation Requirement for a period equal to the lesser of the term of the Agreement or two (2) years after Graduation. However, the graduated Firm will not count as Small Business for new contracts.

(F) If a Small Business is debarred from the applicable program, it shall become ineligible to participate on GMX agreements as a Small Business.

2-105 Solicitation Documents and Contract Documents

Solicitation Documents shall state the Small Business Participation Requirement and provide that:

(A) Only expenditures to Small Businesses for performing a Commercially Useful Function shall be counted toward meeting the Small Business Participation Requirement;

(B) Expenditures to Small Businesses who subcontract work further to non-Small Businesses shall not be counted toward meeting the Small Business Requirement unless such subcontracting receives prior approval from GMX as consistent with normal industry practice;

(C) Agreements in excess of twenty-five million dollars ($25,000,000) which have a Small Business Participation Requirement may require the Prime Consultant/Contractor to make a quarterly report to the GMX Board on its performance/compliance in meeting such requirement during the term of the Agreement;

(D) For Agreements that include a Small Business Participation Requirement, the Bidders/Proposers must comply with the requirements in the Solicitation Documents and Contract Documents including completion and submission of required forms, to demonstrate its commitment to meeting the Small Business Participation Requirement.

2-106 Sanctions for Contractual Violations

(A) Solicitation Documents and Agreements shall provide that, notwithstanding any other penalties or sanctions provided by law, a Bidder/Proposer's violation of or failure to comply with this Policy may result in the imposition of one (1) or more of the following sanctions, at GMX's discretion:

(1) The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;

(2) Work stoppage;

(3) Termination, suspension, or cancellation of the Agreement in whole or part.

(B) In the event that a Bidder/Proposer or Small Business attempts to comply with the provisions of this Policy through fraud, misrepresentation, or material misstatement, GMX shall, whenever practicable, terminate the Agreement. In addition, and as a further sanction, GMX may impose any of the above-stated sanctions on any other Agreements the Bidder/Proposer or Small Business has with GMX. In each instance, the Bidder/Proposer or Small Business shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs.

(C) GMX reserves the right, in addition to any other sanction for failure to fulfill the Small Business Participation Requirement, to condition future awards: If at the conclusion of an Agreement, a Bidder/Proposer did not meet the entire Small Business Participation Requirement, GMX reserves the right to condition future agreement awards to the Bidder/Proposer upon the Bidder/Proposer's ability to make up the Small Business Participation Requirement deficit in future contracts. Should GMX exercise this option, GMX will increase the Small Business Participation Requirement of the future agreement by a percentage equal to the deficient dollar amount in the previous agreement.

Example:
Future agreement amount = $2,500,000
Future agreement Small Business Participation Requirement = 15%
Deficit = $150,000
150,000/2,500,000 = 6%
New future agreement Small Business Participation Requirement = 21%

(D) Some of the contractual violations that may result in the imposition of the sanctions listed herein include, but are not limited to, the following:

(1) A Small Business serving as a conduit for work being performed by a non-Small Business Firm;

(2) A Prime Consultant/Contractor not meeting the Small Business Participation Requirement of an Agreement;

(3) Not obtaining or retaining Small Business certification while performing work designated for Small Businesses;

(4) Failure to submit monthly utilization reports;

(5) Deviation from its commitments to Small Businesses without prior approval from GMX. Such commitments include, but are not limited to:

- Termination of the Small Business's agreement;
- Reduction of the scope of work of a Small Business subcontract;
- Modifications to the terms and/or prices of payment to a Small Business.

(6) Unjustified failure to enter into a written subcontract with a Small Business after listing the Small Business in its Bid/Proposal.

2-107 Invoice Processing & Payments

(A) Prompt Payment

GMX will review and make payments of all invoices from Prime Consultants/ Contractors in accordance with Chapter 218, Florida Statutes. GMX shall notify the Prime Consultant/Contractor, in writing, of any invoice or portions thereof which are in dispute, pursuant to the provisions of the Procurement Policy. This provision is applicable regardless of whether the disputed invoice pertains to the Services performed by Small Businesses.

(B) Small Business' Invoice

The following obligations (2-107 C through E) to promptly process and pay invoices from Small Businesses shall apply to Prime Consultants/Contractors who are in direct privity with the Small Business. Prime Contractors/Consultants must include this provision in any subcontract entered for the Agreement.

Unless otherwise specified in the Agreement, invoices from and payments to Small Businesses shall be handled pursuant to this provision.

(C) Small Business' Invoice Processing

Prime Consultants/Contractors shall process invoices from Small Businesses immediately upon receipt. Prime Consultants/Contractors must notify the Small Businesses in writing of any disputed amount as detailed herein. Invoices submitted to GMX from the Prime Consultants/Contractors must include copies of the approved invoices from Small Businesses utilized to meet the Small Business Participation Requirement and whose cost is included in the invoice submitted to GMX.

Undisputed portions of invoices from Small Businesses that are submitted to the Prime Consultant/Contractor at least five (5) days or more before the Work Program Invoice Submittal Dates or other scheduled invoice submittal by the Prime Consultant/Contractor to GMX pursuant to the applicable Agreement must be included in the Prime Consultant/Contractor invoice submittal.

Undisputed portions of invoices from Small Businesses that are submitted to the Prime Consultant/Contractor less than five (5) days before the Work Program Invoice Submittal Dates or other scheduled invoice submittal by the Prime Consultant/ Contractor to GMX pursuant to the applicable Agreement may be included in the next invoice. In this circumstance, submittal of Small Business invoices shall not be delayed beyond the next invoice submittal by the Prime Consultant/Contactor.

Failure by the Prime Consultant/Contractor to submit the Small Business' invoice(s) as outline herein, and absent notification of disputes, as set forth herein, shall result in the Prime Consultant/Contractor making payment to the Small Business for the full amount of the submitted invoices prior to receiving payment by GMX.

(D) Payment to Small Business

Unless otherwise agreed upon in writing with the Small Business and except for disputed amounts, Prime Consultants/Contractors shall make payment to Small Businesses:

- Within two (2) Business Days of receipt of payment from GMX, including retainage payments received by Prime Consultants/Contractors from GMX.

- Within forty (40) Calendar Days of submittal of invoice(s) by the Small Business to the Prime Consultant/Contractor regardless of whether the Prime Consultant/Contractor has received payment from GMX.

(E) Invoice Disputed Amounts

The Prime Consultant/Contractor shall inform the Small Business and the Procurement Department, in writing, of those amounts billed by the Small Business which are in dispute, and the specific reasons why they are in dispute, within five (5) Calendar Days of submittal of such billing by the Small Business to the Prime Consultant/Contractor.

Failure by the Prime Consultant/Contractor to comply with the aforementioned notification requirement shall result in the Prime Consultant/Contractor's forfeiture of the right to use the dispute as justification for not paying the Small Business and payment shall be forthcoming from the Prime Consultant/Contractor as required herein.

The requirement that the Prime Consultant/Contractor make full payment of the invoice submitted by a Small Business due to failure to comply with this section shall not be construed as also requiring GMX to make a similar full payment of that invoice to the Prime Consultant/Contractor. GMX shall not be precluded from disputing invoices submitted by Prime Consultants/Contractors in accordance with GMX's procedures.

END OF SMALL BUSINESS PARTICIPATION POLICY.