Administration and Human Services Committee

Standing Committee Meeting Agenda Update

Monday, November 30, 2015
6:00 PM

Location:
Municipal Office Building
701 N 7th Street
Kansas City, Kansas 66101
5th Floor Conference Room (Suite 515)

Name	Absent
Commissioner Angela Markley, Chair	☐
Commissioner Melissa Bynum	☐
Commissioner Mike Kane	☐
Commissioner Harold Johnson	☐
Commissioner Jane Philbrook	☐

I. Call to Order/Roll Call

II. Revisions to November 30, 2015 agenda.

Add Committee Agenda Item

Item No. 5 – DISCUSSION: GRANT APPLICATION PROCESSES

Synopsis:
Discussion of grant application processes for the non-CDBG funding that the Unified Government administers, submitted by Joe Connor, Assistant County Administrator.

For discussion only.
Tracking #: 15275

III. Approval of standing committee minutes from September 28, 2015.

IV. Measurable Goals

Item No. 1 - MEASURABLE GOALS: COMMUNITY DEVELOPMENT

Synopsis:
Presentation and discussion of goals for Community Development Department, presented by Wilba Miller, Community Development Director.

For information only.

This item was removed from the October 26, 2015 Administration and Human Services Standing Committee Agenda due to the lateness of the meeting.
Tracking #: 15167

V. Committee Agenda

Item No. 1 - NEW POLICY: ADMINISTRATIVE APPROVAL OF GRANTS

Synopsis:
New policy authorizing administrative approval of grants, submitted by Ken Moore, Interim Chief Legal Counsel.

This item was removed from the October 26, 2015 Administration and Human Services Standing Committee Agenda due to the lateness of the meeting.
Tracking #: 15172

Item No. 2 - REQUEST: AMEND LANDSCAPE CODE TO PROHIBIT PLANTING OF ASH TREES

Synopsis:
Request staff be authorized to modify Section 27-70t - Planting Requirements to reference a list of allowed and prohibited trees to be maintained by the Director of Parks and Recreation, submitted by Robin H. Richardson, Urban Planning and Land Use Director. The new language will prohibit Ash trees.
Tracking #: 15206

Item No. 3 - REQUEST: EXTENSION OF MBE/WBE ORDINANCE FOR CONSTRUCTION CONTRACTS

Synopsis:
A request to re-adopt Division 2 of Ordinance No. O-17-09 to extend the sunset date of December 31, 2014, to December 31, 2017, relating to the MBE/WBE program for construction contracts exceeding $250,000, which is located in Chapter 18, Article V, Division 2 of the Unified Government Code of Ordinances (Sec. 18-256 et seq.), submitted by BrandyWells, Purchasing Department.
Tracking #: 15248

Item No. 4 - PRESENTATION: ANYTIME FITNESS USE OF THE ARGENTINE RECREATION CENTER

Synopsis:

Presentation regarding the proposal from Anytime Fitness to utilize Joe E. Amayo Argentine Community Center to operate a 24-hour fitness center, presented by Joe Connor, Assistant County Administrator; Jeremy Rogers, Parks & Recreation Director; and Matt Warner, Anytime Fitness. This proposal would require renovations to the facility along with a management agreement.

For discussion only.

Tracking #: 15266

VI. Public Agenda

Item No. 1 - APPEARANCE: ELDER VONZEL SAWYER

Synopsis:

Appearance of Elder Vonzel Sawyer, New Bethel Church, 745 Walker Avenue, requesting four disabled parking spaces at the church location.

Tracking #: 15267

VII. Adjourn

Staff Request for Commission Action

Tracking No. 15275

Full Commission Meeting Date: 11/30/2015

Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
11/24/2015	Joe Connor, Assistant County Administrator	x6724	jconnor@wycokck.org	Administrator's Office

Item Description:

Discussion of grant application processes for the non-CDBG funding that the Unified Government administers.

For 2016,the Unified Government will have significantly more available for our grant program with the donation from Schlitterbahn which they made after their project moved forward this summer. With their donation, Shlitterbahn did submit a letter (attached) recommending areas that we consider for funding from this money.

Action Requested:

For discussion only.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Schlitterbahn Letter

SCHLITTERBAHN
WATERPARKS & RESORTS

September 24, 2015

Mr. Doug Bach
County Administrator
Unified Government of Wyandotte County
City Hall
701 N. 7th Street, 9th Floor
Kansas City, KS 66101

Re: SVV I, LLC
Civic Contribution of $750,000 due at STAR Bond Closing

Dear Mr. Bach:

Pursuant to the development agreement between SVV I, LLC (SVV) and the Unified Government of Wyandotte County (UG), at the upcoming STAR Bond closing, SVV is to make a $750,000 civic contribution.

Given the size of this contribution, SVV would like to see the contribution put towards uses that, in addition to providing a benefit to the overall community, also have a potential synergistic tie to the project.

With two of the major attractions of the project being sports and water activities related, with a heavy emphasis on youth involvement, we feel both of these attractions promote healthy living and an active lifestyle; habits that can impact a child's life forever.

Therefore we respectfully request the UG's consideration for directing the monies in the following manner.

1. $500,000 towards the capital campaign for the Community Center in downtown Kansas City, Kansas. We feel this enterprise is admirable and their focus on early childhood swim skills and lessons is a vital life-long skill.
2. $50,000 towards the Urban Scholastic Center. Their work with children in academic advancement positively impacts the city and community as a whole.
3. $50,000 to the Kansas City West Kiwanis Club.
4. We would appreciate the opportunity to meet with the Board of Commissioners, collectively and individually, regarding the investment of the balance, $150,000, as we know there are great causes and needs elsewhere in the community.

We are grateful for our partnership with the UG and appreciate the support given to our team from the UG. We look forward to a successful bond offering and future build-out of the project in the coming years.

Please let us know if there are any questions regarding the subject matter herein.

Thank you for the consideration.

SVV I, LLC

Gary

Gary Henry
Manager

ADMINISTRATION AND HUMAN SERVICES
STANDING COMMITTEE MINUTES
Monday, September 28, 2015

The meeting of the Administration and Human Services Standing Committee was held on September 28, 2015, at 5:45 p.m., in the 5th Floor Conference Room of the Municipal Office Building. The following members were present: Commissioner Markley, Chairman; Commissioners Philbrook, Johnson, Kane; and Bynum. The following officials were also in attendance: Gordon Criswell, Assistant County Administrator; Ken Moore, Interim Chief Counsel; Rob Richardson, Director of Urban Planning & Land Use; Chris Cooley, DOTS-GSS; and Wilba Miller, Community Development Director.

Chairman Markley called the meeting to order. Roll call was taken and all members were present as shown above.

Chairman Markley said a blue sheet has been distributed this evening providing additional information for an existing item on CDBG.

Approval of standing committee minutes for June 22, 2015 and July 20, 2015**. On motion of Commissioner Philbrook, seconded by Commissioner Johnson, the minutes were approved**. Motion carried unanimously.

Committee Agenda:
Item No. 1 – 1579…REMOVE USER LOGIN REQUIREMENT
Synopsis: Recommendation to remove the user login requirement for owner name search and display of real estate information on the UG website, submitted by Christian Cooley, DOTS-GSS.

Christian Cooley, DOTS-GSS, said this is a for information only item. I wanted to bring a policy change before you. Staff has had this discussion with administration, administration recommended we make the change. Legal has suggested that we at least vet it with the

Administration Standing Committee to let you guys know of the policy change that's occurring. The current policy is that users using our public website when they're doing searches and inquries on real estate and similar information must have a user login and be logged into the system in order to see owner name and address of that public information. They see that when they're doing a search from outside of the UG.

A future policy that we're recommending with this is to remove that login requirement. Currently the login is kind of a barrier, kind of cumbersome to the occasional or casual user. My staff and the staff of the Clerk's Office frequently get questions for who owns this property and the question that comes with that is can I do this online. Well, the answer to them is yes, but you you've got to jump through these hoops and create a username and login. Further reasoning for doing this, making this policy change is that in review of other agencies around us, other counties, other cities that provide information like this on a public website; they no longer have this requirement as well. You can do a search by owner name, you can search by parcel number or address and see who the owner of the property is on those other agencies' websites.

I'm recommending that we make the same change here as well. This also will save staff time that we can refer people that are so willing to self serve and many people are happy to do that in today's age. We're certainly willing to help those that call us that don't have the computer savvy or the time to deal with the computer maybe, but those things are the positive benefits of it.

What does this policy impact? It impacts the searches that the public is making on the UG website. What it doesn't impact is the standard Freedom of Information Act Request or the Kansas Open Records Act request, those are still handled in the same way, same manner and somebody would need to submit us a request, explain the record that they're looking for and we'd provide it to them in a timely manner with our standard policies that we do that with. This also doesn't impact those individuals that have opted out under Kansas Statute; members of law enforcement, judges, city attorney's, other members of public safety that has sensitive jobs that would be concerned about their privacy. Their information is removed from the public search on the website if they have requested it. We've recently, I believe in January we received about 200-250 requests from our Police Department and there are other people that have made a request that have been you know—the appropriate person under this statute to make the request to be removed from the public search. That's the impact of the policy.

I wanted to once again inform you, the Commission, that we're making this change unless there's a strong heartache or concern that's raised here at which point we would go back and reconsider it, but at this point I'll give it to you guys to see if you have any comments or questions.

Commissioner Philbrook said I have a comment. It's wonderful, thank you, because back, not too long ago we talked about this a little bit and expressed to you that we would really like the public to be able to get to this information. Thank you very much for following through.

Action: For information only.

Item No. 2 – 1587…REVISE FARMER'S MARKET PROCESS

Synopsis: Request authorization to develop an ordinance to simplify the farmer's market process and fee structure, submitted by Rob Richardson, Director of Urban Planning & Land Use.

What does our current Ordinance say?

SPECIAL USE PERMITS

Sec. 27-593. - Allowable special uses.

(a) The following uses may be permitted under special use permit in any zoning district except as specifically limited herein:

(27) Temporary use of land for commercial or industrial uses; provided, however, that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated shall be temporary and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall not be approved for more than two years.

ACCESSORY USES

Sec. 27-608. - District AG.

In the AG district, accessory uses are as follows:

(2) Sale of products raised on the premises, fruit stands, orchard sales, etc.

Sec. 27-612. - Districts C-1, C-D, C-2 and C-3.

(6) Exterior sales and vending on private property provided that:

a. The sales or vending area does not block an interior sidewalk.

b. Exterior sales and vending is only permitted on private property unless it complies with the street vending ordinance.

Rob Richardson, Director of Urban Planning & Land Use, said this is a request for approval to move forward and develop a new ordinance and administrative policy related to farmer's markets. The current ordinance has two different sections that deals with farmer's markets, one is under the special use permit and the temporary use of land section, so you all see several special use permits or temporary uses of land for commercial or industial purposes. I know you're familiar with that.

The second is under the accessory uses in the agricultural district. If you raise products on site you can sell them on site. That's common across the state. Secondly, in the commercial districts as accessory uses, you can have exterior sales. It doesn't specifically say agricultural products but they would fit in that category.

What is the identified issue?

- Currently "Farmer's Markets are allowed only by Special Use Permit when not on farm Property.
- Farmer's market is considered the temporary use of land for commercial purposes in non-commercial zoning districts.
- SUP process is 60-90 days
- SUP fee is $350

Most of our farmer's market operate under a special use permit; and that is that temporary use of land special use permit. We have a little bit of an issue between local and imported foods. Local, we would define that in the future; but it's somewhere within 100 to 150 miles of us. Not canteloupes from California or grapefruit from Florida. The SUP process takes 60 – 90 days and the fee is $350 every other year to get through that process. Our proposed revisions would be to define both farmer's market and local food, to amend the zoning code to allow farmer's markets as an accessory use specifically in agricultural, all commercial, all industrial and the traditional neighborhood design are TND zoning districts.

Proposed revisions

- Amend zoning code to allow farmer's markets generally
- Create administrative process for approval of local produce
  - Reduce the time frame to be under 2 weeks
  - Reduce fee
- Require Special Use permit for non-local produce

We would create an administrative process for approval of the local produce farmer's markets, reduce that timeframe to be under two weeks and reduce the fee. The fees are set administratively for these types of processes, but I'm thinking somewhere in the $50 a year range for the fee. Then we would require a special use permit for non-local produce if it continues to be an issue as we work with the local growers. I anticipate that it will. If you are going to do something in a residential zoning district, that's what I would propose to do. We would work that through the Planning Commission process and it would come back to you after the Planning Commission saw it.

Commissioner Bynum said I may not have this right but it was my understanding that part of the issue we were dealing with regarding current farmer's markets was the need for them to comply with whatever zoning was present on the spot they were in, such as commercial and number of parking spots, etc., etc. This doesn't fix any of that, does it? **Mr. Richardson** said yes it would. Through the administrative we would have—we're working on an administrative application that would address those things. Having adequate parking will still be one of those that's important but certain commercial parking lots, for instance you would know are only full from Saturday's in the first week of November through the first week of January or something, so there's extra room; some of them that aren't. If it's a restaurant then some of those are full at different times. We can work through some of those issues and this would allow us to have the flexibility to do that, whereas right now we could just say no. All we can do is say no. It think that will give us more flexibility with those and it will give us some better enforcement because there have been people selling at 38th & State and I can tell they probably don't have a business license. They are probably not collecting sales tax and other things. This would allow us to make sure we enforce uniformly across the city.

Commissioner Philbook said I appreciate you doing this. We have a big push to make this community greener and to have a lot more people doing the produce and selling it. This will open it up and actually make it cost effective for them to be able to do it versus having to come before us and pay $350 right off the getgo. Thank you.

Chairman Markley said, Rob, this says this is for information only but then you have direction to staff. It sounds like there's consensus for you to move forward. Do you want a motion or are you good to go. Why don't you do a motion just to be safe.

Action: **Commissioner Philbook made a motion, seconded by Commissioner Johnson, to approve and forward the matter to the full commission.** Roll call was taken and there were five "Ayes," Philbrook, Johnson, Kane, Bynum, Markley.

Item No. 3 – 1586…UPDATE: DIGITAL BILLBOARDS & REMOVAL OF URBAN BILLBOARDS

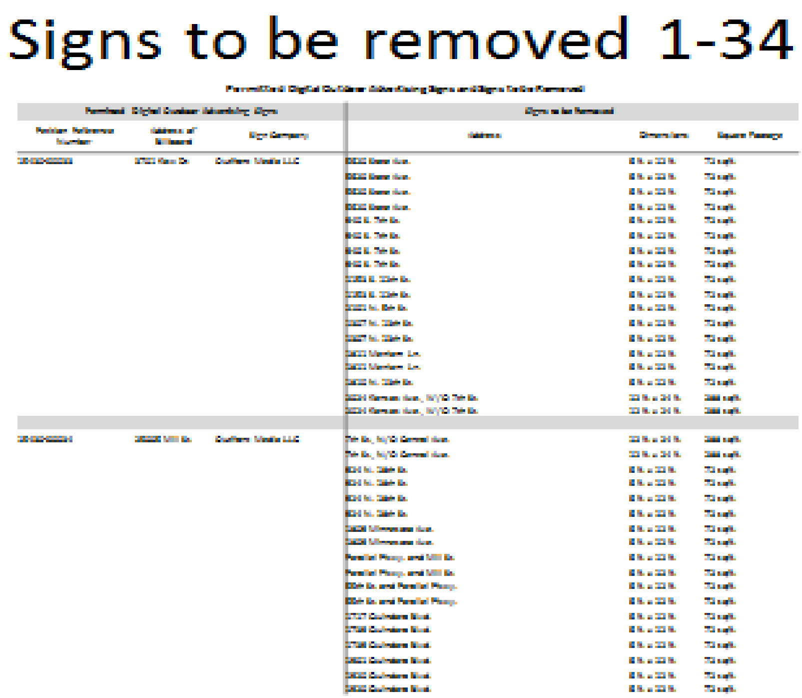
Synopsis: Update on digital billboards and removal of urban billboards resulting from the code change last spring, presented by Rob Richardson, Director of Urban Planning & Land Use.

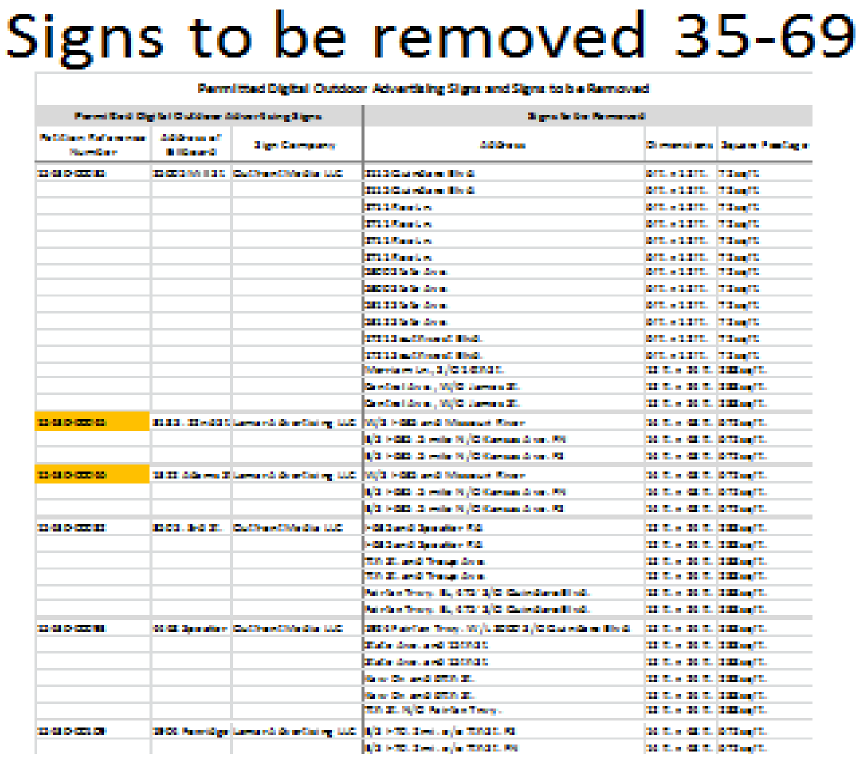
Status of 8 digital billboard permits

Number	Petition Reference Number	Sign Company	Address of Billboard	Conversion Completion Date	Removal Affidavit Submission Date
1	15430-00033	Outfront Media LLC	3701 Kaw Dr		
2	15430-00034	Outfront Media LLC	2500S Mill St		
3	15430-00035	Outfront Media LLC	2500S Mill St		
4	15430-00045	Lamar Advertising LLC	318 S 22nd St	6/10/2015	7/8/2015
5	15430-00046	Lamar Advertising LLC	1322 Adams St	6/10/2015	7/8/2015
6	15430-00062	Outfront Media LLC	330 S 3rd St		
7	15430-00093	Outfront Media LLC	4448 Speaker Rd		
8	15430-00109	Lamar Advertising LLC	1904 Foxridge Dr		

- Why the delay?
  - State permit process
  - Equipment delays from overseas
- Both Companies anticipate completion by the end of the year.

Rob Richardson, Director of Urban Planning & Land Use, said so we have eight digital billboard permits. Those are listed up on the screen with the addresses. As you'll recall last spring, we amended the outdoor advertising, technically the outdoor advertising code to allow digital displays instead of static displays under certain criteria. Two of them have been fully completed permits 4 and 5. The others are delayed from a combination of the state permitting process, equipment delays and overseas shipping. Both companies that are doing these anticipate that they will be complete by the end of the year.





One of the requirements was that they remove urban billboards at a ratio of 1:5 or 2:1 and so each permit, and you have this in your materials that were provided in the packet, each permit and the billboards that will come down related to that. You'll notice that these billboards are already down but it's really only one sign for each board. If they were double-faced signs and they took down—Lamar didn't have a lot of urban boards to take down so they took down actual large billboards and they took down two faces of billboards in two different locations. Those are the signs that are to be removed. As I said, you have that information in your packet.

Next Update

- Next update in February or March when all permits are complete

Since the sign companies anticipate being completed by the end of year, I'll do another update when everything is wrapped up in February or March, depending on when I get the final notices and affidavits that all of the urban boards have been removed based on the digital boards being installed.

Commissioner Johnson said, Rob, are these the only eight billboards that we'll have in Wyandotte County. **Mr. Richardson** said these are the only eight that are currently permitted and the two companies that were most interested in those digital billboards indicate that these are the only ones that they anticipate for sometime. There are a couple of other companies around, but it would be a challenge for them to meet the takedown requirement. They would have to give up space to be able to do that, now they might do that but they haven't informed us that they will. **Commissioner Johnson** said I'm sure you'd know the criteria that is utilized to determine where signs are established. I'm just wondering what criteria basically is utilized to justify these spots versus other spots. **Mr. Richardson** said that's based on the marketing information of each individual company of where they would put the digital display. They will tell you that sometimes they get it wrong and they'll put one up and it doesn't work there and they'll take it down and move it somewhere else. It's just the companies marketing and it also has to meet our—you know they're converting an existing board, so all the existing boards are either legal or legal nonconforming and they have the right to change one of those boards if they meet the other criteria related to the takedown and the business license fees.

Action: For information only.

Item No. 4 – 1597…DISCUSSION: CDBG REALLOCATION AND GRANT APPLICATION PROCESS

Synopsis: Discussion of CDBG Reallocation and Grant Application Process, submitted by Melissa Mundt, Assistant County Administrator.

Commissioner Kane said for the record, I do not believe this belongs in front of this committee and I want everyone to know it.

Wilba Miller, Community Development Director, said during the budget process the Commission asked me to come back before the commission to talk about the allocation of funds, the application process and to give you updates on the current acquisition, rehab and reconstruction activities that are going on. In your packet you will find that there are five items and I'll just kind of really quickly go through the first three that are informational only, starting with the project that's considered now to be called Highland Crest. In the budget process you might have heard it called District 6 Project.

The timeline that had been given to Commission has now been updated to include all of the 2015 information. Wells Fargo has donated a piece of property through the Land Bank and we've accepted it and we've gotten keys for it. Last week Mario Escobar of Argentine Betterment Corporation (ABC) came in and picked up the keys and is starting this scope of work to get on that project. That'll be the first house for that project. We're still in the contract phase of that. We have a couple of agreements over at HUD that they need to review for HUD, lease purchase and purchase of those properties.

The second project is the Argentine Betterment Corporation Project, located at 1351 S. 26th St. This was originally an acquisition rehabilitation of a multi-family structure that was changed to a acquisition possible demolition of the structure. During the budget process we did amend our Consolidated Plan, unfortunately this project had some environmental issues, the main one being noise from the railroad tracks and from the highways. We've with HUD, we've worked with commissioners, we've met with environmental people and we could mitigate the noise, however; it would be so costly that it would not be an effective use of CDBG funds. We sent a letter and met with Mario Escobar on the 18th of September and told him that we would deny the project because of reasonableness of cost.

The next one was the Argentine Highland Crest Economic Development Project. It was discussed at the last two Budget Workshops for the UG. We had received an application in February, the CDBG Committee at that time put some money aside in June for that activity. The full commission reduced that fund, that $500,000 fund to $400,000 with $100,000 moved to the Home Repair Program. At the July 30th meeting they reduced it an additional $50,000 for Doing Real Work for a total of $350,000. Those funds do need to be allocated because they were reclassified from the ABC project to redevelopment housing, economic development, bricks and mortar to be allocated, which brings us to the application process.

The Budget Department prepared an application form two years ago that was very generic and doesn't really work for the intricacies of Community Development projects. Staff and I have met and started researching other cities. In your packet you'll see a draft of an application with various cities listed on page 2 that says that we've checked with cities in Wichita, South Dakota, just different cities that had these online and available to us. This particular draft application is nice in that it contains five sections for different eligible activities under CDBG; housing, economic development, public services so if someone was to come in and wanted to apply for something specific they could and only fill out the generic parts and then that particular section of the application.

Secondly, in that same packet we have an attachment called Managing CDBG. It is the actual HUD document about preaward assessments that we should do on any proposals we take as well as application information on what we would need for their review. The last thing is a proposed CDBG application calendar. We do have the $350,000 from that one that I just talked about available and the $258,000 from the Argentine ABC Project for a total of $608,000 that needs to be allocated. We would like to use the calendar that's in here and we would need Commission direction tonight on presenting a final version of an application to you in October, issuing a request for proposals in November, receiving them by December the 11th, giving staff until January 16th or the next time you meet in January to vet them and bring a spreadsheet with recommendations.

One of the reasons why this is important is because HUD does a timeliness evaluation of us every August. We, this year did not meet but hurriedly scrambled to meet our timeliness issue, so we would like to get started early into the process and have these awarded by the end of January meeting.

Chairman Markley said that was a lot of information. I'm going to kind of reiterate where we are and what Wilba needs from us. We got an update on a few projects and where those stand but basically for the purpose of reminding us that we now have $608,000 that needs to be allocated. In order to allocate those funds I think everyone agrees we need a better application because the application we were using just didn't provide enough information to our applicants. Staff has provided us a draft application and they are looking for us between now and the next meeting to provide any feedback we have to make changes to that application so that in October we can get this process rolling because it's important for our HUD money that we spend it promptly, so we want to award it as quickly as possible. With that reiteration, are there questions about our situation or the application for those of you who may have taken a look at it prior to today or the direction going forward.

Commissioner Johnson said well I'm glad that it's clarified that this is something that we have a little more time to look at first of all. **Chairman Markley** said it's very simple, it's a little one page, tiny document. For those of you in the audience, it's quite the packet. **Commissioner Johnson** said specifically, when we got it I think, just two days ago. I'm not a speed reader. Just for clarity purposes, what we're talking about applies to this $608,000. **Chairman Markley** said correct, and I think the idea is it will be used going forward year after year, but we'd like to get it moving in particular to allocate those dollars.

Commissioner Bynum said first of all, yay, Turner Highland Crest, it looks like house number one. That's awesome and that is the 2014 monies and things are underway and that's really great. Wilba, I appreciate the application even though I do also understand it's a lot of paper to slog through, but this is kind of where I was and I appreciate that you've gone out and looked at what other communities are doing with their CDBG dollars and how they're taking in their applications and you've made sort of a hybrid it looks like of that so I think that's great. I had one more thought and I don't remember what it was, but maybe we'll come back to it before we get out of here for the Chiefs game.

Commissioner Philbook asked does this mean that then—I don't think I heard you say it, but does that mean that we can make the determinations of this CDBG money, take that away from the time that we have to spend on planning for our budget because we know about what we're going to be making and so we don't have to spend a lot of time down in the weeds like some people like to call it. **Ms. Miller** said this will streamline the budget process. **Chairman Markley** said you're exactly right. We hope that we would then be doing this application process separately from the budget process. **Commissioner Philbook** said yay! **Chairman Markley** said to be incorporated into the budget of course. **Commissioner Philbook** said no, I understand. I understand, but not the decision of where it goes. **Commissioner Kane** said and I'm glad you said that because that's one positive that I've seen of this and the rest of it I still think it should go back to a three-person committee and maybe remove one person, put Melissa on the committee and then—because those are the specialists. We're not a specialist, my district is not going to get this money and I just think this was a bad choice of a committee to put it on.

Chairman Markley asked, Commissioner Bynum, did you remember your final thought. **Commissioner Bynum** said yes, thank you very much. The only question I had and now I've done something to my computer so I can't see where I was but the timeline was RFP to go out— **Ms. Miller** said if we brought an application back before you in October and you approved it, we would actually go out the week of November 2nd, start the advertising of the proposal. **Commissioner Bynum** said so basically a five week window here. RFP out, December 11th applications back in and my question is around the marketing piece of that. **Ms. Miller** said I brought a list. **Commissioner Bynum** said Commissioner Kane is volunteering me and I'm volunteering myself. If you brought a list, great. We can talk about it now or we can talk about it later. The marketing is a big deal to me. Thank you. **Ms. Miller** asked do you want me to go ahead, make a comment or two. **Commissioner Bynum** said sure. **Ms. Miller** said we always advertise our public hearings and the regular budget process in the following: *Echo, The Call, The Globe, Dos Mundos, KC Hispanic News* and we also put it in the *eNews* and the UG website. We inform Liveable Neighborhoods of it and they send it out and we inform homeless agencies, however; we've decided to add Wyandotte Economic Development Corporation, United Way, the Chambers of Commerce, obviously the commissioners and our housing development organizations.

Chairman Markley said I'd like to say Wilba had that list in mind just for you, Commissioner. She was ready to go.

Action: For information only.

Chairman Markley adjourned the meeting at 6:11 p.m.

tpl

Staff Request for Commission Action

Tracking No. 15167

Full Commission Meeting Date: 11/30/2015
Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
10/30/2015	Wilba Miller, Director	x5112	wmiller@wycokck.org	Community Development

Item Description:
Presentation and Discussion of Goals for Community Development Department

Action Requested:
For Discussion Only

Budget Impact: (if applicable)
Amount:
Source:
Included In Budget:
Other (explain):

Attachments List:
Community Development Dept. Goals

October 14, 2015

COMMUNITY DEVELOPMENT DEPARTMENT

MEASURABLE GOALS

I. Community Development Block Grant Application for Funding

A. Develop and finalize application for Administration and Human Service Standing Committee review and approval by October 26, 2015

B. Issues requests for 2016 Applications for CDBG Funding by November 6, 2015

C. Successfully complete first utilization of CDBG application process by presenting application evaluations and recommendations to Administration and Human Service Standing Committee on January 19, 2016

II. Customer Service and Transparency

A. Create Community Development Department webpage for Section 3 with the following information: UG Section 3 Policy, UG Section 3 Reports section, and links to HUD Section 3 pages by January 30, 2016

B. Create Community Development Department webpage for Fair Housing with the following information: UG information regarding contracts for deed, tenant videos, fair housing brochure, Regional Fair Housing Plan, links to Human Resources Department, and links to HUD Fair Housing pages by January 30, 2016

Staff Request for Commission Action

Tracking No. 15172

Full Commission Meeting Date: 11/30/2015

Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
10/30/2015	Ken Moore, Deputy Chief Counsel	x5070	kjmoore@wycokck.org	Administrator's Office

Item Description: New policy authorizing administrative approval of grants. *Information forthcoming.*
Action Requested:
Budget Impact: (if applicable) Amount: Source: Included In Budget: Other (explain):
Attachments List: Grant Application and Acceptance Policy

GRANT APPLICATION and ACCEPTANCE POLICY

(Draft 10/26/15)

The Unified Government is presented and seeks the opportunity to utilize grant funds to supplement and expand the core and discretionary operations and services it provides. This policy governs the grant application and acceptance process. To the extent practical, this policy follows the intent of the Budget Policy adopted by the Commission on 12/19/13. In all circumstances, any necessary or required budget revision is subject to that Budget Policy.

For purposes of this policy, there are 3 categories of grants with differing controls as follows:

1) **Grants less than $50,000 which requires matching or supplemental UG funds of less than $10,000.**
   The Budget Policy authorizes the County Administrator to manage Department expenditures of less than $10,000. Grants in this category are subject to that policy and the application and acceptance of such grants do not require Commission review or approval. Notice of such application and acceptance will be provided to the Commission as part of the Weekly Business Material.

2) **Grants less than $50,000 which requires matching or supplemental UG funds greater than $10,000 but less than the grant amount.**
   The Budget Policy authorizes the County Administrator to approve certain budget revisions from $10,000 to $50,000 subject to the approval of the Mayor, or Mayor pro-tem if the Mayor is absent.
   a) Grants in this category which are considered a core UG function or service are subject to that policy and the application and acceptance of such grants are within the authority of the County Administrator subject to the approval of the Mayor, or Mayor pro-tem if the Mayor is absent. Such applications will be reported to the appropriate Standing Committee, and notice of such application and acceptance will be provided to the Commission as part of the Weekly Business Material.
   b) Grants in this category which are considered a discretionary function or service as determined by the Mayor, requires Commission action. The

application for such grants is subject to the approval of the appropriate Standing Committee and Commission. If approved by the Commission, the award and acceptance of the grant will be reported to that Standing Committee and notice will be provided to the Commission as part of the Weekly Business Material.

3) **Grants greater than $50,000 which requires matching or supplemental funds greater than $50,000.**

   The application for such grants is subject to the approval of the appropriate Standing Committee and Commission. If approved by the Commission, the award and acceptance of the grant will be reported to that Standing Committee and notice will be provided to the Commission as part of the Weekly Business Material.

Staff Request for Commission Action

Tracking No. 15206

Full Commission Meeting Date: 11/30/2015
Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15
Full Commission date: 12/17/15?
(If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
10/31/2015	Robin H. Richardson, Director	x5774	rrichardson@wycokck.org	Planning & Zoning

Item Description:
Staff is proposing a modification to Section 27-70t - Planting Requirements to reference a list of allowed and prohibited trees to be maintained by the Director of Parks and Recreation. The new language will prohibit Ash Trees. The proposal will be presented to the Planning Commission on December 14, 2015.

Action Requested:

Budget Impact: (if applicable)
Amount:
Source:
Included In Budget:
Other (explain):

Attachments List:

Staff Request for Commission Action

Tracking No. 15248

Full Commission Meeting Date: 11/30/2015

Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15 Full Commission: 12/10/15 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
11/17/2015	Melissa Mundt, Assistant County Administrator	x5017	mmundt@wycokck.org	Purchasing/Compliance

Item Description:

The MBE/WBE program for construction contracts exceeding $250,000, which is located in Chapter 18, Article V, Division 2 of the Unified Government Code of Ordinances (Sec. 18-256 et seq.), expired on December 31, 2014. The ordinance (No. O-17-09) was adopted in April 2009, and Division 2 originally was due to sunset on December 31, 2013. Division 2 was extended for one year (Ord. No. O-58-13), resulting in a sunset date of December 31, 2014. During this time, the position of supplier opportunity coordinator became vacant, leaving the program dormant for over a year. In January 2015, the position was filled and efforts began to revitalize the supplier diversity program.

This presentation will provide staff recommendations for the future of the supplier diversity program.

Recommendation to approve re-adopting Division 2 of Ordinance No. O-17-09 with a sunset date of December 31, 2017, while working concurrently on a disparity study or data collection analysis to support revision of the ordinance.

Action Requested:

Approve changes as proposed and forward to Full Commission for approval.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

MBE/WBE Ordinance Extenstion

Published 2-26-09 and 3-5-09

ORDINANCE NO. O-17-09

An ordinance amending Chapter 18 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, by adding a new article on supplier opportunity, directing the county administrator (1) to implement race- and gender-neutral remedies to encourage participation by small business enterprises, including minority and woman business enterprises, on Unified Government contracts; and (2) to take affirmative measures to provide opportunities for minority and woman business enterprises to participate on Unified Government construction contracts exceeding $250,000,

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. Chapter 18 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, is amended by adding a new article to read as follows:

Article V. SUPPLIER OPPORTUNITY

DIVISION 1. GENERAL PROVISIONS

Sec. 18-150. Purpose and scope.

In 2006, the Unified Government co-sponsored an area-wide diversity study with the City of Kansas City, Missouri and other jurisdictions within the Kansas City metropolitan area. The results of that study, published in November 2006, showed statistically significant underutilization of minority and woman business enterprises as prime contractors or subcontractors in various categories of Unified Government contracts. The Board of Commissioners is committed to correcting these disparities and to increasing opportunities for minority and woman business enterprises to participate as prime contractors, joint venturers, subcontractors, and suppliers on Unified Government contracts. The intent of the Board of Commissioners is to achieve its supplier diversity goals through the use of race- and gender-neutral remedies to the extent feasible. As set forth below, the Board of Commissioners authorizes the county administrator to implement race- and gender-conscious remedies to the extent necessary to increase the utilization of minority and woman business enterprises on Unified Government construction contracts exceeding $250,000. The Board of Commissioners intends to review the results of this program regularly and, as set forth in this article, the county administrator is directed to collect data on participation of minority and woman business enterprises on Unified Government contracts.

Sec. 18-151. Annual goals.

(a) The county administrator shall recommend to the Board of Commissioners an overall annual goal for minority and woman business enterprise participation on Unified Government contracts, as well as a specific annual goal for the utilization of minority and woman business enterprises on construction contracts exceeding $250,000. Specific goals may be established for other industries, professions, or trade groupings. The goals shall be stated as a percentage of dollars anticipated to be spent on contracts in the upcoming year. The county administrator's recommendations shall be submitted to the Board of Commissioners during the fourth quarter of the preceding calendar year. For 2009, the county administrator shall submit recommendations for goals no later than May 31, 2009.

(b) As a basis for the establishment of the annual goals, the county administrator shall annually determine the availability of all minority and woman business enterprises doing business in the Unified Government's marketplace by industries, professions, or trade groupings. The county administrator shall conduct such inquiries, studies, and hearings, and utilize information and assistance from such persons, consultants, entities, or organizations, within or without the Unified Government, including but not limited to the coordinator of the Office of Supplier Opportunity, Contract Fairness Board, and department heads, as he or she may deem necessary to make annual recommendations.

(c) The Board of Commissioners shall review the annual goals recommended by the county administrator and may direct that additional inquiries be conducted as it deems appropriate. The Board of Commissioners shall approve, disapprove, or modify the recommended annual goals by resolution.

(d) As used in this division 1, "Unified Government contracts" means all Unified Government contracts, except contracts for minor purchases, sole source procurements, and emergency procurements.

Sec. 18-152. Responsibility of county administrator for achievement of annual goals; authority; reports to Board of Commissioners.

(a) The county administrator shall be responsible for achieving the annual goals established by the Board of Commissioners by any or all of the following means:

(1) By using race- and gender-neutral remedies to increase opportunities for minority and woman business enterprises to

participate as prime contractors, joint venturers, subcontractors, and suppliers on Unified Government contracts; and

(2) By using race- and gender-conscious measures to increase participation of minority and woman business enterprises on Unified Government construction contracts exceeding $250,000, as authorized in division 2 of this article.

(b) Except as otherwise provided, the following shall count toward the annual goals: Portions of work on Unified Government contracts undertaken by minority and woman business enterprises as prime contractors, joint venturers, subcontractors, and suppliers. For the work to count toward the annual goals, the minority or woman business enterprise must have performed a commercially useful function as defined in section 18-157(6).

(c) The county administrator is expressly delegated the necessary powers to effectuate the purposes of this article, including the authority to promulgate regulations necessary to implement its provisions.

(d) Not later than 30 days after the end of each of the first three quarters of the calendar year, the county administrator shall submit a written report to the Board of Commissioners detailing progress toward the annual goals.

(e) Not later than the last day of February of each year, the county administrator shall submit to the Board of Commissioners a comprehensive annual report for the previous calendar year, which shall include, but not be limited to, the following:

(1) Detailed information on the availability and participation of minority and woman business enterprises on Unified Government contracts during the previous year by industries, professions, or trade groupings, including the availability and utilization of minority and woman business enterprises on construction contracts exceeding $250,000;

(2) A comparison of MBE and WBE utilization achieved during the previous year to prior years and to the annual goal;

(3) A description and evaluation of the effectiveness of individual race- and gender-neutral measures undertaken by the Unified Government;

(4) For each construction contract exceeding $250,000, the availability of minority and woman business enterprises to perform the contracted work, the project goals, the justification for the goals, and whether the contractor complied with the goals or

demonstrated the required good faith efforts throughout the duration of the project;

(5) For any construction contract exceeding $250,000 for which the county administrator has waived or modified the application of project goals, an explanation of the reasons for the waiver or modification;

(6) A description of all enforcement efforts undertaken by the coordinator under division 2 of this article;

(7) The results of any additional studies conducted or commissioned by the Unified Government on the subject of supplier diversity, including disparity studies;

(8) If the annual goal was not met, a description of additional actions or program modifications being taken to ensure that the current year's goal is met; and

(9) Recommendations for further action by the Board of Commissioners.

Sec. 18-153. Race- and gender-neutral remedies.

(a) The county administrator shall implement race- and gender-neutral remedies to facilitate participation by minority and woman business enterprises as prime contractors, joint venturers, subcontractors, and suppliers on Unified Government contracts. Race- and gender-neutral remedies may include, but are not limited to, the following:

(1) Unbundling large procurements into small contracts;

(2) Establishing a small contracts rotation program for small businesses;

(3) Using direct contracting to award small prime contracts;

(4) Establishing a direct purchase program for supplies and materials utilized by prime contractors;

(5) Lowering insurance requirements, consistent with the interests of the Unified Government;

(6) Eliminating or reducing retainage for small contracts and releasing the subcontractor's portion of the retainage once its work has been completed and accepted;

(7) When mobilization is paid to the prime contractor, requiring the prime contractor to pay subcontractors mobilization in an amount equal to their participation level on the prime contract at the time they are directed to mobilize and before commencing their work;

(8) Developing an expedited payment program for small businesses;

(9) Providing prompt payment of undisputed invoice amounts and implementing procedures to resolve disputed items in a timely manner;

(10) Requiring prime contractors to validate that subcontractors have been paid before final payment;

(11) Developing formal subcontractor substitution standards;

(12) Requiring prime contractors to list all subcontractors included in their bids or proposals and all subcontractors who submitted bids or proposals but were not hired;

(13) Conducting routine post-award contract compliance monitoring;

(14) Establishing a complaint procedure for minority and woman business enterprises who believe they have been discriminatorily denied award of a prime contract or the opportunity to participate as a subcontractor or supplier on a contract;

(15) Using the Unified Government's website to give notice of forecasted projects and upcoming solicitations;

(16) Developing an internet registry of minority and woman business enterprises interested in participating on Unified Government contracts; and

(17) Establishing programs to educate small business enterprises, including minority and woman business enterprises, about contracting opportunities with the Unified Government.

(b) The county administrator may decline to implement or apply any race- and gender-neutral remedy if, in the county administrator's judgment, the annual goals set by the Board of Commissioners can be met in a more effective or cost-efficient manner through the implementation of other race- and gender-neutral remedies; implementing or applying the remedy would create an unreasonable risk of legal liability; or implementing or applying the remedy would be likely to have a substantial adverse impact on the operations or interests of the Unified Government.

Section 18-154. Office of Supplier Opportunity; coordinator; duties and authority.

(a) The county administrator shall establish an Office of Supplier Opportunity and shall appoint a coordinator to supervise the Office and to perform the duties and responsibilities set forth in this article. The county administrator shall assign necessary staff to assist the coordinator in discharging his or her duties and responsibilities. The qualifications for the position of coordinator shall be established by the county administrator, and the coordinator shall report to the county administrator or his or her designee.

(b) The coordinator shall have the following duties and responsibilities, in addition to any other duties and responsibilities specified in this article:

(1) To implement and administer the provisions of this article, subject to the direction of the county administrator or his or her designee;

(2) To formulate, propose, and implement rules and regulations for the development, implementation, administration, and monitoring of the programs established under this article, subject to approval by the county administrator;

(3) To determine on an ongoing basis the availability of minority and woman business enterprises within the Unified Government's marketplace for all relevant industries, professions, or trade groupings;

(4) To make recommendations to the county administrator on annual goals for participation of minority and woman business enterprises on Unified Government contracts;

(5) To evaluate and make recommendations to the county administrator on the implementation of race- and gender-neutral remedies;

(6) To coordinate with the chief procurement officer, department heads, and other Unified Government employees to ensure the efficient and cost-effective implementation of the programs under this article;

(7) In cooperation with the chief procurement officer and department heads, to establish information reporting requirements for

contractors that shall be incorporated into the terms of all invitations for bids, requests for proposals, and contracts;

(8) To collect and maintain in a centralized database all data needed to evaluate the utilization of minority and woman business enterprises on Unified Government contracts and the impact of the programs established under this article, including race- and gender-neutral remedies;

(9) To collect and maintain data on the residency of all contractors, joint venturers, subcontractors, and suppliers who participate on contracts subject to division 2 of this article;

(10) To monitor the Unified Government's progress towards the established annual MBE and WBE goals;

(11) To determine the eligibility of business enterprises to participate as minority or woman business enterprises on contracts subject to division 2 of this article;

(12) To attend meetings of the Contract Fairness Board and to furnish staff assistance to the Board;

(13) To establish project goals under division 2 of this article with the assistance and advice of the Contract Fairness Board and in consultation with the department head;

(14) To evaluate bids or proposals for compliance with project goals, including determining whether the bidder or proposer has demonstrated required good faith efforts;

(15) To monitor post-award compliance with project goals and the requirements of division 2 of this article;

(16) To enforce the provisions of division 2 of this article, including imposing sanctions when warranted;

(17) To provide information and assistance to minority and woman business enterprises and other small business enterprises relating to Unified Government contracting practices and procedures and bid specifications, requirements, and prerequisites;

(18) To implement an online directory of minority and woman business enterprises as part of the Unified Government's website;

(19) To develop and maintain relationships with organizations representing contractors, including organizations representing minorities and women, and to solicit their input and advice on the Unified Government's programs;

(20) To implement any MBE, WBE, or DBE program required by federal or state law or contract;

(21) To monitor compliance with MBE, WBE, or local business enterprise participation goals contained in any development or similar agreement to which the Unified Government is a party;

(22) To conduct or recommend studies necessary to evaluate, support, or improve the programs established under this article;

(23) To assist the county administrator in preparing quarterly and annual reports to the Board of Commissioners, as required by subsections 18-152(d) and (e); and

(24) To perform other related duties as assigned.

Sec. 18-155. Relation to Chapter 29, Procurement Code.

This article is intended to supplement the procurement code in Chapter 29 of this code. To the extent that the provisions of this article are inconsistent with the provisions of Chapter 29, the provisions of this article shall govern.

DIVISION 2. MBE/WBE PROGRAM FOR CONSTRUCTION CONTRACTS EXCEEDING $250,000

Sec. 18-156. Contracts subject to this division.

(a) Except as otherwise provided, the provisions of this division shall apply to all construction contracts exceeding $250,000.

(b) The provisions of this division shall not apply to a contract to be paid in whole or part with funds from the United States government or the State of Kansas to the extent that they are inconsistent with requirements, terms, or conditions imposed by those governments.

Sec. 18-157. Definitions.

For the purposes of this division, the following definitions shall apply, unless otherwise clearly required by the context:

(1) *Annual goal* means the annual goal established by the Board of Commissioners under section 18-151(c).

(2) *Bid* means a bid to perform a construction project made in response to an invitation for bid, as provided in section 29-153 of the procurement code.

(3) *Bid shopping* means the practice in which a person divulges or requires another to divulge a subcontractor's bid or proposal for the purpose of securing a lower bid or proposal.

(4) *Broker* means a business enterprise that performs a commercially useful function as an intermediary, for a fee, in the acquisition of materials, supplies, or equipment, regardless of whether or not it takes title to such materials, supplies, or equipment, for the Unified Government or its contractors or suppliers, but that is not a manufacturer, manufacturer's representative, or regular dealer. Only bona fide commissions earned by a broker for its activities in performing a commercially useful function on a Unified Government contract shall be counted toward the project goal.

(5) *Business enterprise* or *business* means an individual, sole proprietorship, corporation, limited liability company, partnership, limited partnership, limited liability limited partnership, joint stock company, joint venture, professional association, or any other legal entity operated for profit that is properly licensed or registered, as applicable, owned and controlled by persons who are citizens or lawful permanent residents of the United States, and otherwise authorized to do business in the State of Kansas.

(6) *Commercially useful function* means real and actual services that are a distinct and verifiable element of the contracted work based upon private sector trade or industry standards. An MBE or WBE performs a commercially useful function when it is responsible for executing the ordinary and necessary work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether an MBE or WBE is performing a commercially useful function, all relevant factors will be evaluated, including the following:

a. The amount of work subcontracted;

b. Industry practices;

c. Whether the amount the MBE or WBE is to be paid under the contract is commensurate with the work it is actually performing;

d. Whether the MBE or WBE has the skill and expertise to perform the work for which it is being utilized;

e. Whether the MBE or WBE is responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering, installing (where applicable), and paying for the material and supplies itself; and

f. The credit claimed for its performance of the work.

(7) *Competitive selection process* means the process of using competitive sealed proposals, as described section 29-154 of this code.

(8) *Conduit* means an MBE or WBE that knowingly agrees to pass the scope of work for which it is listed for participation and is scheduled to perform or supply on a contract to a non-MBE or non-WBE. In this type of relationship, the MBE or WBE has not performed a commercially useful function and the arranged agreement between the two parties is not consistent with standard industry practice. This arrangement does not meet the commercially useful function requirement, and, therefore, the MBE's or WBE's participation does not count toward the MBE or WBE goals on the contract.

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

(10) *Construction contract* means any Unified Government construction contract whose value exceeds $250,000, except those that are exempted from a competitive bidding or selection process under the procurement code in Chapter 29. This definition shall encompass design-build contracts, but does not include stand-alone contracts with the Unified Government for professional design and construction services or for construction-related supplies.

(11) *Contractor* means a business enterprise that enters into a competitively bid or otherwise competitively selected contract with the Unified Government, in privity of contract with the Unified Government.

(12) *Day*, unless otherwise indicated, means working day.

(13) *Design-build contract* means a contract for the procurement of both the design and the construction of a structure, building, or other improvement in a single contract with a single design-build contractor or combination of such contractors that are capable of providing the necessary design and construction services.

(14) *Coordinator* means the coordinator of the Office of Supplier Opportunity.

(15) *Good faith efforts* means substantive and meaningful good faith actions undertaken by a contractor to achieve the MBE and WBE project goals as defined in more detail in section 18-161 of this division.

(16) *Individual* or *person* means a natural human being and not a legally-created or maintained entity.

(17) *Joint venture* means an association of two or more business enterprises to constitute a single business enterprise to perform a Unified Government construction contract for which purpose they combine their property, capital, efforts, skills, and knowledge and in which endeavor each joint venturer is responsible for a distinct, clearly defined portion of the work of the contract, performs a commercially useful function, and shares in the capital contribution, control, management responsibilities, risks, and profits of the joint venture to an extent equal to its ownership interest. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the joint venturers and their relationship and responsibility to the contract.

(18) *Manufacturer* means a business enterprise that operates or maintains a factory or establishment that produces, or substantially alters on the premises, the materials, supplies, or equipment provided to contractors, subcontractors, manufacturer's representatives, or suppliers on a contract, required under the contract and of the general character described by the contract specifications. The percentage of the value of the commercially useful function performed by a manufacturer on a Unified Government contract shall be counted toward the applicable project goal in the same manner as for a supplier.

(19) *Manufacturer's representative* means a business enterprise that sells products for one or more manufacturers. The manufacturer's representative must possess any licenses or certifications required by the manufacturer to sell its products. A manufacturer's representative does not take legal title to or physical possession of the products that it sells, the products generally being sent directly from the manufacturer to the contractor or subcontractor purchasing the products. Only bona fide commissions earned by a manufacturer's representative in performing a commercially useful function on a contract shall be counted toward the project goal as set out in section 18-159.

(20) *Minority* or *minority individual* means a person who is a citizen or lawful permanent resident of the United States and who is:

a. African American, a person whose origins are in any of the Black racial groups of Africa, and who has historically and consistently identified himself or herself as being such a person;

b. Hispanic American or Latino American, a person whose origins are in Mexico, Central, or South America, or any of the Spanishspeaking islands of the Caribbean (for example, Cuba and Puerto Rico) regardless of race, and who has historically and consistently identified himself or herself as being such a person;

c. Asian or Pacific Islander American, a person whose origins are in any of the original peoples of the Far East, Southeast Asia, the islands of the Pacific or the Northern Marianas, or the Indian Subcontinent, and who has historically and consistently identified himself or herself as being such a person; or

d. Native-American, a person having origins in any of the original peoples of North America, and who maintains tribal affiliation or demonstrates at least one-quarter (1/4) descent from such groups, and who has historically and consistently identified himself or herself as being such a person.

(21) *Minority business enterprise* or *MBE* means a business enterprise that is owned and controlled by one or more minority individuals and that is certified as a minority business enterprise by one of the entities set forth in section 18-158(a)(1).

(22) *Packager* means a business enterprise that performs a commercially useful function in the packaging of goods, but is not itself a regular dealer, manufacturer, or manufacturer's representative. A packager shall be considered and treated as a broker.

(23) *Principal place of business* means the location at which the business records of the business enterprise are maintained and the location at which the individual who manages the business enterprise's day-to-day operations spends the majority of his or her working hours.

(24) *Professional design and construction services* means those areas of services ancillary to construction as encompassed within the Unified Government's contracting processes, including but not limited to architectural, engineering, real estate appraisal, land surveying, testing, and construction management services.

(25) *Proposal* means a proposal to perform a construction project submitted in response to a request for proposals, as provided in section 29-154 of the procurement code.

(26) *Qualified* means that a business enterprise has the financial ability, expertise, skill, experience, licensing and registration, and access to the necessary staff, facilities, and equipment to complete contracts or subcontracts that it may undertake on projects. The Unified Government makes no representations as to the qualification of any business enterprise.

(27) *Regular dealer* means a business enterprise 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 contract specifications and required for the performance of the contract are bought and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the business enterprise must be an established, regular business engaged in, as a substantial and material portion of its business, and in its own name, the purchase and sale or lease of the products in question. A regular dealer is presumed to keep such materials, supplies, articles, or equipment in stock, but must in any event bear the risk of loss of such items. A regular dealer in such bulk items as steel, cement, gravel, stone, asphalt, and petroleum products need not own, operate, or maintain a place of business if it both owns and operates distribution equipment for the products. Any supplementation of a regular dealer's distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Brokers, conduits, packagers, manufacturers, and manufacturer's representatives shall not be regarded as regular dealers within the meaning of this term.

(28) *Subcontractor* means a business enterprise that directly contracts with a contractor or subcontractor to perform work on a Unified Government contract.

(29) *Supplier* means a business enterprise that directly contracts with a contractor or subcontractor to provide materials, supplies, or equipment on a Unified Government contract. A supplier may be a regular dealer, manufacturer, manufacturer's representative, or broker.

(30) *Unified Government's marketplace* means the geographic and procurement area in which the Unified Government contracts on an ongoing basis and includes Cass, Clay, Jackson, and Platte counties in Missouri and Johnson, Leavenworth, and Wyandotte counties in Kansas.

(31) *Woman business enterprise* or *WBE* means a business enterprise that is owned and controlled by one or more women who are citizens or lawful permanent residents of the United States and that is certified as a woman business enterprise by one of the entities set forth in section 18-158(a)(1).

Sec. 18-158. Eligibility of business enterprise to participate as MBE or WBE.

(a) To be eligible to participate as a minority or woman business enterprise on contracts subject to this division, a business enterprise must meet the following requirements:

(1) It must be certified as a minority or woman business enterprise (MBE or WBE) by one of the following entities:

a. City of Kansas City, Missouri;

b. State of Kansas or its certifying agencies, including the Kansas Department of Commerce and Housing and Kansas Department of Transportation;

c. State of Missouri or its certifying agencies, including the Office of Supplier and Workforce Diversity and Missouri Department of Transportation;

d. Mid-America Minority Business Development Council;

e. Women's Business Enterprise National Council; or

f. National Women Business Owners Corporation.

(2) It must have a real and substantial presence in the Unified Government's marketplace. A business enterprise will be deemed to have a real and substantial presence in the Unified Government's marketplace if:

a. The enterprise's principal office or place of business is in the Unified Government's marketplace;

b. The enterprise maintains full-time employees in one or more of the enterprise's offices within the Unified Government's marketplace to conduct or solicit business in the Unified Government's marketplace the majority of their working time;

c. The enterprise has transacted business more than once in the Unified Government's marketplace within the past three years; and

d. The enterprise has been in existence in the Unified Government's marketplace for at least one year.

(b) The coordinator shall, by rule and regulation or informal guidelines relating solely to internal management and procedure, establish reasonable procedures and methods for the determining the eligibility of business enterprises to participate as MBEs or WBEs on contracts subject to this division.

(c) *Unified Government officials, employees, and their relatives ineligible.* No business enterprise shall be eligible to participate as an MBE or WBE on contracts subject to this division if ownership or control of such business enterprise is held by a Unified Government official or employee, as defined in section 2-253 of this code, or an official's or employee's spouse, child, sibling, or parent.

(d) *Disqualification of business enterprise.* The coordinator shall disqualify a business enterprise that does not continuously meet the above eligibility criteria from participating as an MBE or WBE on contracts subject to this division.

(1) *Duty to notify of change of circumstances.* The business enterprise shall notify the coordinator of any change in its circumstances affecting its continued eligibility under this division within 30 days after the enterprise becomes aware of the change of circumstances. Failure to notify the coordinator of a change of circumstances affecting eligibility may result in the imposition of sanctions under section 18-170.

(2) *Failure to respond, attend, honor, or comply.* The coordinator may disqualify a business enterprise from participating as an MBE or WBE on contracts subject to this division if the enterprise repeatedly fails to respond to requests for quotations from bidders or proposers who timely solicit participation on a contract, to attend relevant pre-bid or pre-proposal conferences, to honor quotations in good faith, or otherwise to comply with the requirements of this division.

Sec. 18-159. Project goals.

(a) Upon approval of the county administrator, the coordinator shall add a requirement to the bid or proposal instructions for each construction contract assigning project goals for MBE and WBE utilization based upon a percentage of the dollar value of all work on the contract, and, as set out below, the availability of MBEs and WBEs to perform the work and the Unified Government's progress toward meeting the annual goal for construction contracts; provided that, if the county administrator determines it to be in the best interests of the Unified Government, the county administrator may waive or modify the application of a project goal for a given contract. The goal percentage assigned by the coordinator may vary from contract to contract consistent with meeting the annual goal. The individual project goal for each contract shall be set forth in the bid or proposal instructions.

(b) The following contributions shall count toward the project goal as more specifically provided below: Portions of work undertaken by MBEs and WBEs as contractors, joint venturers, subcontractors, and suppliers.

(c) As an aid in the establishment of an individual project goal, the coordinator shall seek the advice and assistance of the Contract Fairness Board established in section 18-172. The coordinator may utilize the advice of the Contract Fairness Board to the extent that the coordinator deems it to be appropriate and consistent with the purposes of this article.

(d) Upon approval of the county administrator, the coordinator may cause a representative sample of Unified Government construction contracts to be bid or otherwise selected without a project goal to determine MBE and WBE utilization on such contracts in the absence of a goal.

Sec. 18-160. Compliance with project goals.

The bid or proposal specifications for each construction project shall require that all bidders or proposers seeking to contract with the Unified Government address the project goal through one or more of the following subsections, or by demonstrating good faith efforts as set out in section 18-161:

(a) If the bidder or proposer is an MBE or WBE, the value of the commercially-useful function to be self-performed by the MBE or WBE shall count to the extent provided in section 18-162 toward satisfaction of the project goal, provided that the project goal to the extent not met by bidder or proposer self-performance shall be addressed as otherwise set out in this section;

(b) If the bidder or proposer submits a joint venture agreement that includes one or more MBEs or WBEs, the value of the commercially useful function to be performed by the MBEs or WBEs in the joint venture shall count to the extent provided in section 18-162 toward satisfaction of the project goal. The joint venture is subject to review and approval by the coordinator, and the joint venture agreement shall be provided to the coordinator within a time period before the date of bid opening or the date of final project-specific proposal in the case of a competitive selection process defined by the coordinator. Joint venturer participation will count toward the satisfaction of the project goal upon confirmation by the coordinator of the utilization in the joint venture of joint management and full integration of work forces by the joint venturers; or

(c) If the bidder or proposer utilizes MBEs or WBEs as subcontractors or suppliers, the value of the commercially useful function to be performed by such MBEs and WBEs shall count to the extent provided in section 18-162 toward satisfaction of the project goal.

Sec. 18-161. Good faith efforts.

(a) If the bidder or proposer has not fully met the project goal established under section 18-159, then it shall demonstrate that it has made good faith efforts to meet such goal. The bidder or proposer shall furnish to the coordinator, within two days after bid opening by the Unified Government or date of final project-specific proposal in the case of a competitive selection process, a detailed statement of its good faith efforts to meet the project goal. The statement shall address each of the items in subsection (b) and any additional criteria that the director may establish by rule or regulation consistent with the purposes of this division. Good faith efforts must be demonstrated to be meaningful and not merely for formalistic compliance with this division. The scope and intensity of the efforts will be considered in determining whether the bidder or proposer has achieved a good faith effort.

(b) The statement of good faith efforts shall include a specific response and verification with respect to each of the following good faith effort categories, which may be further defined by rule or regulation. A bidder or proposer may include any additional information it believes to be relevant. Failure of a bidder or proposer to show good faith efforts as to any one of the following categories shall render its overall good faith effort showing insufficient and its bid or proposal non-responsive:

(1) If pre-bid or pre-selection meetings are scheduled by the Unified Government at which MBEs and WBEs may be informed of joint venture, subcontracting, or supplier opportunities under a proposed contract to be bid or procured under a competitive selection process, attendance at such pre-bid or pre-selection meetings is not mandatory; however, bidders and proposers are responsible for the information provided at these meetings.

(2) The bidder or proposer must solicit by all reasonable and available means, the interest of all MBEs and WBEs certified in the scopes of work of the contract. The bidder or proposer must solicit the interest of the MBEs and WBEs within sufficient time, before the bid opening or date of final project-specific proposal in the case of a competitive selection process, to allow the MBEs and WBEs to respond to the solicitation. The bidder or proposer must determine with certainty if the MBEs and WBEs are interested by demonstrating appropriate steps to follow up initial solicitations.

(3) The bidder or proposer must select portions of the work of the contract to be performed by MBEs and WBEs to increase the likelihood that the project goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE and WBE participation as joint venturers or subcontractors, and for bidder or proposer self-performed work, as suppliers, all reasonably consistent with industry practice, even when the bidder or proposer would otherwise prefer to perform these work items with its own forces. The bidder or proposer must identify what portions of the contract will be self-performed and what portions of the contract will be opened to solicitation of bids, proposals, and quotes from

MBE and WBEs. All portions of the contract not self-performed must be solicited for MBE and WBE participation. The ability or desire of a bidder or proposer to perform the work of a contract with its own forces does not relieve the bidder or proposer of the responsibility to meet the project goal or demonstrate good faith efforts to do so.

(4) The bidder or proposer, consistent with industry practice, must provide MBEs and WBEs at a clearly stated location with timely, adequate access to and information about the plans, specifications, and requirements of the contract, including bonding and insurance requirements, if any, to assist them in responding to the solicitation.

(5) The bidder or proposer must negotiate in good faith with interested MBEs and WBEs and provide written documentation of negotiation with each MBE or WBE.

(6) For each MBE or WBE that contacted the bidder or proposer or that the bidder or proposer contacted, consistent with industry practice, the bidder or proposer must supply a statement giving the reasons why the bidder or proposer and the MBE or WBE did not succeed in negotiating a joint venture, subcontracting, or supplier agreement, as applicable.

(7) The bidder or proposer must provide verification that it rejected each non-utilized MBE and WBE because the MBE or WBE did not submit the lowest bid or was not qualified. Such verification shall include a verified statement of the amounts of all bids received from potential or utilized joint venturers, subcontractors, and suppliers on the contract, whether or not they are MBEs or WBEs. In determining whether an MBE or WBE is qualified, the bidder or proposer shall be guided by the definition of qualified in section 18-157(26). Evidence of lack of qualification must be based on factors other than solely the amount of the MBE's or WBE's bid. For each MBE or WBE found not to be qualified by the bidder or proposer, the verification shall include a statement giving the bidder's or proposer's reasons for its conclusion. A bidder's or proposer's industry standing or group memberships may not be the cause of rejection of an MBE or WBE. A bidder or proposer may not reject an MBE or WBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the MBE's or WBE's capabilities and expertise.

(c) In determining whether a bidder or proposer has satisfied good faith efforts as to a project goal, the success or failure of other bidders or proposers on the contract in meeting the project goal may be considered.

Sec. 18-162. Identification of participating MBEs and WBEs.

(a) At the time of bid opening or date of final project-specific proposal in the case of a competitive selection process, the bidder or proposer shall provide to the Unified Government an affidavit of intended utilization in a form prescribed by the coordinator stating its intent to meet the project goals or to submit evidence of good faith efforts to meet those goals.

(b) Within two days of bid opening or date of final project-specific proposal in the case of a competitive selection process, the bidder or proposer shall provide to the Unified Government the following:

(1) A notarized contractor utilization plan in a form prescribed by the coordinator. The contractor utilization plan shall list all MBEs and WBEs that are being utilized toward the satisfaction of the project goal, whether as a self-performing bidder or proposer or as joint venturers, subcontractors, or suppliers. The list shall specify:

a. The name and contact name for each MBE or WBE;

b. The dollar value and description of the commercially useful function to be performed by the MBE or WBE, consistent with subsections (e) and (f) of this section;

c. The percentage of the value of the commercially useful function to be performed by the MBE or WBE, consistent with subsections (e) and (f), as compared to the total contract amount;

d. The designation of each business enterprise as either an MBE or WBE; and

e. An adequate statement from the bidder or proposer that the dollar amount of work to be performed by each MBE or WBE on the contract, other than that self-performed by the bidder or proposer, was furnished to the bidder or proposer and agreed upon before the bid opening or date of final project-specific proposal in the case of a competitive selection process.

(2) An executed letter of intent for each MBE or WBE listed by the bidder or proposer, affirming that the contractor agrees to utilize

the MBE or WBE on the project and describing the commercially useful function to be performed and the agreed upon dollar amount to be paid by the contractor; and

(3) If the bidder or proposer has failed to meet the project goals, the statement of good faith efforts required by section 18-161.

(c) Failure to provide the documentation required by subsections (a) and (b) in a timely manner will render the bid or proposal non-responsive.

(d) Only that level of MBE or WBE utilization demonstrated in accordance with this section at the time of bid opening or date of final project-specific proposal in the case of a competitive selection process may be counted in satisfaction of the project goal, except as otherwise set out in sections 18-165 and 18-166.

(e) All MBE or WBE contractors, joint venturers, subcontractors, or suppliers must actually perform a commercially useful function in the work of a contract within the areas for which they are certified, and must not function as a conduit. Consistent with industry practice, and as permitted by rules and regulations adopted by the coordinator, MBEs and WBEs may enter into subcontracts, including subcontracts with non-MBEs and non-WBEs. In no case, however, shall an MBE or WBE act as a conduit, nor shall the participation of an MBE or WBE count toward a project goal to the extent it fails to perform a commercially useful function.

(f) Expenditures for materials, supplies, and equipment obtained from an MBE or WBE supplier shall count toward the appropriate project goal. Expenditures for materials, supplies, and equipment paid to MBEs and WBEs that are not suppliers may count toward an appropriate project goal only to the extent of fees or commissions charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract, provided that the fee or commission is determined by the coordinator to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(g) Any agreement between a bidder or proposer and an MBE or WBE in which the bidder or proposer requires that the MBE or WBE not provide quotations to other bidders or proposers is prohibited and shall render the bid or proposal non-responsive.

(h) Bid shopping is prohibited and shall render the bid or proposal non-responsive.

Sec. 18-163. Responsive and nonresponsive bids or proposals.

(a) *Responsive; compliance with requirements.* If the coordinator determines that a bid or final project-specific proposal in the case of a competitive selection process meets the project goal, or that the bidder or proposer has shown adequate good faith efforts as required by section 18-161, then the coordinator shall notify the procurement officer and department head to regard the bid or proposal as responsive under with this division.

(b) *Failure to meet requirements.* If the coordinator determines that a bid or proposal does not meet the project goal and that the bidder or proposer has failed to show good faith efforts as required by section 18-161, or that the bidder or proposer has failed to provide timely documentation as required by section 18-162, then the coordinator shall notify the procurement officer and department head to regard the bid or proposal as non-responsive, and no further consideration shall be given by the Unified Government to the bid or proposal.

(c) *Informal meeting.* If the coordinator finds the bid or proposal non-responsive in accordance with subsection (b) above for failure of the bidder or proposer to show adequate good faith efforts, the non-responsive bidder or proposer may request an informal meeting with the coordinator within two working days from the date that the Unified Government notifies the bidder or proposer of the inadequacy of good faith efforts. The coordinator shall meet with the non-responsive bidder or proposer before notifying the procurement officer and department head that the bid or proposal is non-responsive. All deficiencies in the good faith efforts shall be explained to the bidder or proposer at such meeting after which the bidder or proposer shall be allowed an additional 24 hours in which to submit additional information or to clarify the original good faith efforts. The coordinator will at no time, however, allow joint venturers, subcontractors, or suppliers not listed on the contractor utilization plan to be counted toward meeting the project goal for the purpose of making the bid or proposal responsive. If after this informal meeting or the expiration of the 24-hour period to submit additional information, the coordinator still finds the bid or proposal to be non-responsive, the coordinator shall make the notification as stated in subsection (b) above.

Sec. 18-164. Schedule of work to be performed by MBEs and WBEs.

Within five working days following commencement of work on a contract, the contractor shall submit to the coordinator a duplicate of the project schedule that sets forth in detail the anticipated utilization of all MBEs and WBEs on the contract. In the event of a contract performance delay of more than one-third of the originally estimated length of time between project notice to proceed and completion, the contractor shall submit to the coordinator not later than the originally estimated date of project completion, a revised schedule for utilization of all MBEs and WBEs on the contract.

Sec. 18-165. Compliance with achieved project goal level required throughout performance of contract.

(a) Upon award of a contract by the Unified Government that includes a project goal, the project goal becomes a covenant of performance by the contractor in favor of the Unified Government.

(b) All contracts subject to this division shall be reviewed by the coordinator for compliance with the provisions of this division. This review shall examine, but not be limited to, whether the MBE and WBE participation dollar amounts and percentages and achieved project goal levels upon which the contract was awarded are maintained over the term or duration of the contract.

(c) For any contract for which the coordinator has set a project goal, it shall be an ongoing, affirmative obligation of the contractor on such contract to maintain, at a minimum, compliance with the originally achieved level of MBE and WBE participation upon which the contract was awarded, for the duration of the contract, unless the Unified Government initiates a material alteration to the scope of work affecting MBEs or WBEs performing on the contract through change order, contract amendment, force account, or as otherwise described in section 18-166.

(d) The coordinator shall evaluate the utilization of MBEs and WBEs to determine whether such MBEs and WBEs are performing a commercially useful function. The evaluation shall examine the amount of work subcontracted, industry practice, and other relevant factors. The amount of MBE and WBE participation credited toward a project goal shall be based upon an analysis of the specific duties performed by the MBE or WBE and the extent to which such duties constitute a commercially useful function. The coordinator may undertake such inquiries or studies, consult such employees, or, with the approval of the county administrator, retain such consultants as may be necessary to assist the coordinator in making these determinations.

(e) The work performed by an MBE or WBE not providing a commercially useful function or by an MBE or WBE functioning as a conduit shall not count toward meeting the project goal.

Sec.18-166. Project change orders, amendments, and modifications.

(a) Contractors shall have a continuing obligation to immediately inform the coordinator in writing of any agreed-upon increase or decrease in the scope of work of the contract, upon any of the bases discussed in this section, regardless of whether the increase or decrease in scope of work has been reduced to writing at the time of notification.

(b) Any increase in the scope of work of a construction contract, whether by amendment, change order, force account, or otherwise that increases the dollar value of the contract, whether or not the change is within the scope of work designated for performance by an MBE or WBE at the time of contract award, shall be contemporaneously submitted to the coordinator. Those amendments, change orders, force accounts, or other contract modifications that involve a changed scope of work that cannot be performed by existing project subcontractors or by the contractor shall be subject to a goal for MBEs and WBEs equal to the original project goal on the contract that was included in the bid or proposal requirements. The contractor shall satisfy such goal as respects the changed scope of work by soliciting new MBEs or WBEs in accordance with section 18-160, or the contractor must show each element of modified good faith efforts set out in section 18-168(c). The contractor shall supply to the coordinator the documentation described in section 18-168(c) with respect to the increased dollar value of the contract.

Sec. 18-167. Payments to joint venturers, subcontractors and suppliers.

All contractors shall promptly render payment to all joint venturers, subcontractors, and suppliers on a contract. A contractor shall provide with each pay request to the Unified Government, beginning with the second pay request, partial claim releases from joint venturers, subcontractors, and suppliers in form and content satisfactory to the Unified Government or shall provide, at the Unified Government's sole option, alternative proof of payment to subcontractors and suppliers in form and content approved by the coordinator, evidencing that all joint venturers, subcontractors, and suppliers have been duly paid out of the proceeds of the contractor's payments from the Unified Government, unless a bona fide dispute, documented in writing, exists between the contractor and the unpaid joint venturer, subcontractor, or supplier.

Sec. 18-168. Potential violations during contract performance.

(a) A contractor who has been awarded a contract based upon a given level of MBE and WBE participation shall not at any time before or during the performance of such contract:

(1) Fail to utilize an MBE or WBE that was listed on the contractor utilization plan to satisfy the project goal, and for which a letter of intent was submitted, without substituting another MBE or WBE performing the same commercially useful function and dollar amount, or demonstrating each element of modified good faith efforts, as defined in subsection (c) of this section, to substitute another MBE or WBE; or

(2) Fail to allow an MBE or WBE functioning as a joint venturer, subcontractor, or supplier to perform the commercially useful

function, the value of which was originally counted for that MBE or WBE in awarding the contract; or

(3) Modify or eliminate all or a portion of the scope of work attributable to an MBE or WBE upon which the contract was awarded, unless directed by the Unified Government; or

(4) Terminate an MBE or WBE originally utilized as a joint venturer, subcontractor, or supplier in order to be awarded the contract without replacing the MBE or WBE with another MBE or WBE performing the same commercially useful function and dollar amount, or demonstrating each element of modified good faith efforts, as defined in subsection (c), to substitute another MBE or WBE; or participate in a conduit relationship with an MBE or WBE scheduled to perform work on the contract; or commit any other violation of this division, or rules and regulations promulgated under this division, that constitutes a material breach of the contract, not mentioned above.

(b) Any action by a contractor in violation of subsections (a)(1) through (4) of this section shall constitute a material breach of the contract and shall entitle the Unified Government to exercise all of its rights at law or equity for such material breach, in addition to exercising any of the other sanctions set out in section 18-170. If, after award of a contract, an MBE or WBE has its certification terminated, fails to perform a commercially useful function, the value of which was originally counted for that MBE or WBE in awarding the contract, or voluntarily withdraws its MBE or WBE participation on the contract, and the contractor can demonstrate that the termination or failure did not result from any action or inaction, whether direct or indirect, by the contractor, the termination of certification, failure to perform a commercially useful function, or withdrawal from participation shall not be deemed to affect compliance with the project goal and shall not be deemed a breach of the contract; provided, however, that the terminated MBE or WBE is substituted with another MBE or WBE performing the same commercially useful function and dollar amount, or that modified good faith efforts to substitute another MBE or WBE, as defined in subsection (c), are demonstrated.

(c) In the event that a contractor must add or replace an MBE or WBE joint venturer, subcontractor, or supplier or in the event that a new scope of work is added to the ongoing contract, and the contractor is in non-compliance with maintenance of the original project goal upon which the contract was awarded due to failure to utilize additional MBEs or WBEs, the following modified good faith efforts must be completed. Failure of a contractor to show good faith efforts as to any one of the following categories shall render its overall good faith efforts showing insufficient and its contract performance in non-compliance with this division.

(1) The contractor must submit notice in writing to the coordinator of its intent to terminate or replace an MBE or WBE previously identified for participation. The reason for the termination or replacement must be stated and the type of work or services must be identified.

(2) The contractor must verify in writing to the coordinator that it used the most current MBE and WBE directory from the Unified Government to contact MBEs and WBEs that are certified in the applicable area of work or supply at the time of the modified good faith efforts.

(3) The contractor must submit documentation to the coordinator verifying its efforts to contact appropriate MBEs and WBEs within the Unified Government's marketplace. Facsimile transmission, e-mail, and telephone communication will be acceptable. The coordinator may verify such contacts as he deems appropriate.

(4) Documentation of the modified good faith efforts must be submitted to the coordinator before the payment to the contractor of the next progress or other partial payment or fund release under the contract.

Sec. 18-169. Burden of proof; investigations of compliance.

Any business enterprise affected by the operation of this division shall have the burden of proving its compliance with the requirements and obligations of the division. The coordinator is empowered to receive and investigate complaints and allegations by MBEs, WBEs, third parties, or Unified Government personnel, or to initiate his or her own investigations into compliance with the requirements and obligations of this division. If the coordinator determines in his or her sole discretion that an investigation is warranted, upon written notice of such investigation the affected party shall be obligated to cooperate fully with the investigation and shall have a continuing burden of providing complete, truthful information to the coordinator and of otherwise proving compliance with the requirements and obligations of this division.

Sec. 18-170. Contract sanctions for failure to comply with requirements of division.

(a) If a contractor is found to be in violation of the provisions of this division; to otherwise be in breach of a contract; to perform as or to utilize MBEs or WBEs for a non-commercially useful function or as a conduit; to fail to submit information required by this division; to submit false, misleading, or materially incomplete statements, documentation, or records, including but not limited to contractor utilization plan, letters of intent, or good faith efforts; or to fail to cooperate in an investigation, it shall be subject to sanctions. The Unified Government may exercise any or all of its rights, including but not limited to withholding funds, imposing monetary penalties, or suspending or terminating the contract, contained in the contract terms and conditions. If the contract is suspended or terminated, the Unified Government reserves all its rights at law or equity, with the suspension or termination being deemed a response to a contractor default.

(b) In the event that the coordinator determines that a contractor has not complied with this division, the coordinator may assess the contractor a civil, remedial penalty of not more than 150 percent of the contract amount that would have been allocated to one or more MBEs or WBEs but for the contractor's noncompliance. In assessing a civil penalty:

(1) The coordinator shall calculate the applicable amount of civil penalty, and may reduce or waive all or part of the penalty in consideration of the following factors:

a. The length of the period of noncompliance;

b. The history of previous noncompliance with any provision of this division;

c. The monetary impact of the civil penalty on the contractor in correcting the noncompliance; or

d. Other facts and circumstances relevant to the noncompliance of the contractor.

(2) The coordinator shall collect assessed and unpaid civil penalties under this subsection by action initiated in state district court. A stay of any order of the coordinator pending judicial review shall not relieve a contractor from any civil penalty obligation imposed under this section.

(3) Any assessed civil penalties may be offset against any amount, including but not limited to contract retainage, otherwise due and owing to the contractor on the contract.

(4) The contract may be suspended or terminated, with the Unified Government reserving all its rights at law or equity, with such suspension or termination being deemed a response to a contractor default;

(5) The coordinator may suspend or debar the contractor from participating in Unified Government contracts subject to this division for a period as may be determined by the coordinator under such suspension and debarment procedures as may be established by the Unified Government. In that event, the coordinator shall regard as non-responsive any bid or proposal received during this time period that includes the contractor as a contractor, joint venturer, subcontractor, or supplier.

(6) If a contractor or other business enterprise knowingly receives new or additional work on a contract as a result of actions set out in this section, then the penalties in this section may be applied to such business enterprise.

(7) The coordinator may suspend or revoke an offending MBE's or WBE's eligibility for participation, may suspend its participation from counting toward a project goal, and may suspend or debar it from participating in future Unified Government contracts based upon such MBE's or WBE's acting as a conduit, failing to comply with the provisions of this division, failing to perform a commercially useful function on a contract, failing to submit required information, submitting false, misleading, or materially incomplete statements, documentation, or records, or failing to cooperate in an investigation.

(c) The coordinator may impose any one or more of the sanctions set out in this section against any contractor, joint venturer, subcontractor, or supplier determined to be in violation of the section, provided that the coordinator shall first advise the affected department head of the proposed sanction in writing. If the department head advises the coordinator in writing that the department head believes that imposition of the sanction would not be in the best interests of the Unified Government, the coordinator shall consult with the department head before making a decision as to whether to impose the sanction.

(d) Suspected criminal violations shall be referred to the proper authorities for prosecution. If a conviction or a guilty plea is obtained as a result of such prosecution, the perpetrator may be barred from contracting with the Unified Government to the extent authorized by law.

Section 18-171. Appeal procedure.

(a) Any person or business enterprise aggrieved by any decision or action of the coordinator made under authority of this division, other than the determination of project goals, may appeal to the county administrator by delivering a written notice of appeal to the county administrator not later than 10 days following the receipt of notice of the coordinator's decision or action. The notice of appeal shall specify the decision or action appealed from and the reasons why the decision or action is believed to be in error. The person or business enterprise filing the notice of appeal shall serve copies of the notice of appeal by first-class mail or by hand-delivery on all persons or business enterprises known to have an interest in the outcome of the appeal. Service of copies of the notice of appeal on interested persons or business enterprises shall be documented in a certificate of service delivered to the county administrator with the notice of appeal. Failure to serve a copy of the notice of appeal on a person or business enterprise known to have an interest in the outcome of the appeal shall be grounds for denial of the appeal.

(b) Failure to file a timely appeal shall constitute waiver of the right to appeal the coordinator's decision or action.

(c) In the event that the outcome of the appeal may impact the award of a contract for which bids or proposals have been invited or requested before or during the pendency of the appeal, the county administrator, in his sole discretion, may delay award of the contract pending the outcome of the appeal.

(d) Upon receiving the notice of appeal, the county administrator shall decide whether to conduct a hearing on the appeal personally, to appoint a designee or hearing officer to hear the appeal, or to refer the appeal to the Contract Fairness Board established in section 18-172 for hearing and recommendation.

(e) A hearing on the appeal shall be held within 21 days of the county administrator's receipt of the notice of appeal. At the county administrator's discretion, the hearing date may be extended for up to an additional 14 days. The county administrator may expedite the appeal or request that the Contract Fairness Board expedite the appeal if he or she decides that it is in the interest of any interested party or the Unified Government to do so.

(f) A bidder or proposer who has been declared an apparent successful bidder or proposer shall have the right to intervene in any appeal filed on that project. Any bidder, proposer, contractor, or other person or business enterprise whose interests will be affected by any appeal may be permitted by the county administrator or the Contract Fairness Board (if the matter is referred by the county administrator to the Board) to intervene in the appeal.

(g) If the county administrator refers the appeal to the Contract Fairness Board, the Board shall report its findings and recommendations in writing to the county administrator within 10 days of the conclusion of the hearing.

(h) The county administrator shall send written notice of his decision on the merits of the appeal to the person or business enterprise appealing and to any known interested persons or business enterprises by first-class mail within 14 days after conclusion of the hearing or, if the appeal is referred to the Contract Fairness Board, within 10 days of receiving the Board's findings and recommendations.

(i) Exhaustion of the appeal procedure set forth in this section shall be a jurisdictional prerequisite to the commencement of a civil action in district court challenging any decision or action of the coordinator.

Sec. 18-172. Contract Fairness Board; composition; conflict of interest; quorum.

(a) There is hereby established the Unified Government Contract Fairness Board. The Board shall advise the county administrator and the coordinator on project goals for MBE and WBE participation in construction contracts and make recommendations for improvement of the MBE and WBE program.

(b) *Board composition.* The Board shall be composed of seven members appointed by the Mayor as follows:

(1) One member and one alternate recommended by the Builders' Association;

(2) One member and one alternate recommended by the Heavy Constructors' Association;

(3) One member and one alternate recommended by the Kansas Black Chamber of Commerce;

(4) One member and one alternate recommended by the Hispanic Contractors Association of Greater Kansas City;

(5) One member and one alternate recommended by the Women Construction Owners and Executives and National Association of Women in Construction;

(6) One member and one alternate recommended by the Kansas City, Kansas Chamber of Commerce; and

(7) A chairperson appointed by the Mayor.

(c) *Term of appointment.* The terms of all Board members shall be four years, except that the initial terms of the members and alternates appointed under subsection (b)(1), (3), and (5) shall be two years.

(d) *Co-chairperson.* The members of the Board shall select a co-chairperson from among them to preside in the absence of the chairperson.

(e) *Alternates.* In the event a Board member is unable to attend a meeting of the Board or has a conflict of interest on a particular contract or issue, the alternate shall serve in that member's place. The term of an alternate shall expire at the expiration of the term of the Board member.

(f) *Ineligible for appointment.* The following are ineligible to serve on the Contract Fairness Board:

(1) Officials and employees of the Unified Government, as defined in section 2-253 of this code, or an official's or employee's spouse, child, sibling, or parent; and

(2) Non-residents of the Unified Government's marketplace.

(g) *Conflict of interest.* If a Board member has a conflict of interest on a contract or issue that comes before the Board, the member shall be temporarily replaced by the alternate. If the alternate has a conflict of interest in a bid, contract, or issue that comes before the Board, the alternate shall recuse himself.

(h) *Quorum.* Four members or alternates of the Board shall constitute a quorum unless otherwise increased by Board rules.

Sec. 18-173. Responsibilities of the Contract Fairness Board; goal setting; appeals.

(a) *Goal setting.* Before release for bid or proposal, the coordinator shall present to the Contract Fairness Board recommended MBE or WBE goals for each proposed construction contract. The Board shall advise the coordinator as to whether it believes the recommended goals are appropriate. If the Board considers the recommended goals inappropriate, it shall recommend alternative goals to the coordinator. In the event of a disagreement over goals, the coordinator shall meet with the Board and attempt to reach agreement on goals for the project. The coordinator shall have authority to decide project goals, subject to approval by the county administrator.

(b) *Advice.* The coordinator and county administrator may seek the advice of the Board about any matter related to the administration of the programs established under this article. The coordinator, county administrator, mayor, or Commission may seek the Board's input or recommendations on modifications or additions to this ordinance.

(c) *Appeals.* When requested by the county administrator, the Board shall hold hearings on appeals filed under section 18-171 and shall issue written findings and make recommendations to the county administrator as to the disposition of the appeal.

(d) *Same; authority of board.* The Board shall hold a hearing within 21 days of the date the appeal was filed. The Board shall have authority to investigate and to inquire into all the facts and circumstances of the appeal and may hold investigative hearings for such purpose. The Board shall have the authority to issue advisory opinions concerning appeals to the county administrator, including recommending that the county administrator reverse, affirm, or modify decisions or actions of the coordinator. The Board shall issue a written report of its findings and recommendations to the county administrator within ten days of the conclusion of the hearing. The Board shall expedite the hearing and issuance of its findings and recommendations at the request of the county administrator.

(e) *Same; intervention.* A bidder or proposer who has been declared an apparent successful bidder or proposer shall have the right to intervene in any appeal filed on that project. Any bidder, proposer, contractor, or other person or business enterprise whose interests will be affected by any appeal may be permitted by the Board to intervene in the appeal.

Sec. 18-174. Review and sunset.

(a) This division shall be reviewed by the Board of Commissioners on the third anniversary of its enactment to determine whether it should be revised or whether additional studies are warranted.

(b) This division shall be repealed effective December 31, 2013.

Section 2. Severability. If any provision of this ordinance is held invalid or unenforceable, it shall be severed from the remaining provisions, which shall remain in full force and effect.

Section 3. Effective Date.

(a) This ordinance shall take effect and be in full force on April 15, 2009, from and after its passage, approval, and publication in the official Unified Government newspaper.

(b) Division 2 of Article V of Chapter 18 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas shall apply to all construction contracts exceeding $250,000 for which bids or proposals are invited or requested on or after July 1, 2009.

PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS 19th DAY OF February, 2009.

Joe Reardon, Mayor/CEO

Attest:

Unified Government Clerk

Approved as to Form:

Assistant Counsel

UNIFIED GOVERNMENT • Wyandotte County • Kansas City, Kansas

Purchasing Division

Jaime Richardson, Purchasing Director

701 North 7th Street, 6th Floor
Kansas City, Kansas 66101-3064

Phone: (913) 573-5440
Fax: (913) 573-5444

Memorandum

To: Mayor Reardon

Cc: Gary Ortiz, Assistant County Administrator

From: M. Jason Banks, Supplier Diversity Coordinator

Date: 2/13/2009

Re: Supplier Diversity Ordinance Feedback

Mayor Reardon,

The following report is a synopsis of feedback from stakeholders on the most recent draft of the supplier diversity ordinance. The process of gathering feedback included email and letter submittals, meetings with stakeholders, and a series of public forums. In the interest of brevity, only a sample of the submitted comments has been included in this memo. A complete transcript of electronically submitted comments is included as Attachment A. A list of stakeholder contacts is included as Attachment B. A summary of several key changes to the previous version of the ordinance is included as Attachment C.

Please contact any member of the team with questions about this report or the proposed ordinance. Thank you.

Cc: Jaime Richardson, Purchasing Director
Henry Couchman, U.G. Counsel
Gordon Criswell, Assistant County Administrator
Doug Bach, Deputy County Administrator

Table of Contents

The following outline identifies the 3 broad commenting categories, contains excerpts from public comments (a), and provides a summary of the manner in which the Ordinance addresses the particular topic (b).

Major Commenting Categories

1) Scope of Program

2) Data Collection / Reporting

3) Program Resources

I. Scope of Program

a. - Bernardo Ramirez, Hispanic Economic Development Corporation: "Although the ordinance relates specifically to construction and subcontracting, the Unified Government should be aware that other industries exist and the potential of supplier diversity should include optional access to these other industries."

   - Willie Smith, North East Business Association: "Until a process is developed for goods and services contractors, establish an interim set aside program in their behalf with a specific dollar amount made available in the set aside."

b. Based on feedback from the Commission and a review of our legal and administrative parameters, it is staff's recommendation that M/WBE goal setting be applied to construction projects >$250,000. Other industry groups and projects will be eligible for race/gender neutral remedies. As we create the necessary forms and procedures and gather more comprehensive data, we will revisit this particular section of the program.

II. Data Collection / Reporting

a. – Kris Blevins, Blevins & Bradbury Architects: "Will the Unified Government database of WBE/MBE firms be divided into consultants and contractors?"

   – Don Gardner, Moody Nolan Architects: "I have attached for your reference some of the forms used by the City of Dallas to insure that all of their City projects have the required participation goals that the city is seeking…no need to recreate the wheel…"

b. Upcoming technical changes, including electronic supplier registration and M/WBE reporting will allow Purchasing to more efficiently manage supplier communications and track expenditures to subcontractors. These technical changes and the creation of revised forms and procedures will allow for regular reporting to internal and external stakeholders. The data collected will be used to monitor the effectiveness of the program during the annual review process.

III. Program Resources

a. - Paul Rodriguez, Hispanic Contractors: "I believe that the new proposed ordinance will be in need of proper funding if a desired successful program is intended to be. What can I do now to promote adequate funding?"

   - Bernardo Ramirez, Hispanic Economic Development Corporation: "The ordinance should include technical assistance resources and financial support for existing business-consulting providers. These are entities that can prepare businesses for submitting bids when appropriate, among other things."

b. In addition to upcoming technical changes, additional funding and human resources will be necessary to support the program. We will leverage relationships with our community partners to assist with outreach and training. Internal reorganization will also be necessary to adequately support the data collection and reporting outlined in the Ordinance. Administration is currently working through this process.

MJB

Attachment A

Lazone Grays, IBSA, (lazoneg@ibsa-inc.org)

Mon 1/26/2009 7:14 PM

As you know, I have stayed aware, abreast, informed and involved in the disparity issue and other community/economic development issues facing African American because it is a part of what we do. From advocating long enough to finally getting the state to provide certification for W/MBEs (three governors) to pushing for and getting passed policies in Topeka that now dedicates public funds for the training, development, and support of the same, we have played a role in pushing forward whatever necessary to establish a better foundation for Black entrepreneurs, neighborhoods and job seekers where few have taken the time or cared.

Over the years I have tried to encourage and corral local organizations in various cities to dismiss the turf and do what is best for the overall growth of Black communities and neighborhoods. As a lifelong Kansan (47 yrs), I have never felt that I must be restricted to use my talents and education within the city I lived in, but to learn, accomplish and take what I know to make any community where Black folks live a better place than when I left. Not to exclude anyone, but other ethnicity's have created strong organizations and leaders that have evolved them into having a foundation in which they proactively played a role in diminishing their own unemployment numbers; which we have not. In cities that I have done policy and programmatic work, it has mostly been our inability to overcome turfdom that has worked against getting things done in a community. The only positive to this is that it has allowed me to bypass religious and political turf and therefore just work on the legal and policy activities that is best for the overall future of the Black community; and not just the few or for ego's sake.

I look forward to WYCO passing its supplier diversity ordinance and I am especially pleased at the extra effort you are fostering to make it a premier approach. It is truly doing me a favor.

Once passed, it arms me something to bring back to Topeka and push for as both KCMO and now KCK will have something that is legally sound, practical and comprehensive. These factors alone will help diminish the resistance I anticipate will happen here. I will also be submitting and recommending ways in which public funds can be utilized to support the economic development of W/M/DBEs in KCK; just as it has worked here in Topeka. Currently, I have also been involved with some Leavenworth County commissioners to look into the sales tax they have and by sharing what has been accomplished in Topeka, they too are open and receptive to dedicating a portion of it to do the type of development and support services that have grown out of the Topeka initiative. That which has proven to work should be shared wherever it can make a true difference.

When there are uniform regional policies that are supported by a communities leadership, it can only make Kansas and regional economies stronger. The Workforce Partnership receives its federal funding allotment for Wyandotte, Leavenworth and Johnson County and with our agency currently being the only approved training provider for entrepreneurial training in which these funds can be used for the development of dislocated and small businesses, the supplier diversity ordinance will greatly assist us in our efforts in Leavenworth as it is considered part of the KCK Market Area. This ordinance will be a plus in helping majority firms access M/WBEs for goals that will be set, as Leavenworth is an area that does not have the voice or business development agencies engaged in what's happening in the Village West area like those in WYCO, Johnson County or KCMO. And, they are right down the road.

I have been asked by some business owners in KCK to present the recommendations I have shared with you concerning the makeup of the fairness board, so I do plan to attend. This is my only area of concern in an ordinance I think is very good. I also reached out to Christal like you suggested concerning the Network Kansas info and discussing a mutual outreach session, but have not heard anything back from her as of yet. I'll keep on it.

Well, I've said enough but the most important thing I want to accomplish in this email is to give you have a better understanding of me, our organizations ongoing efforts in the regional area and my commitment to be of value to your efforts and of benefit to the Black community as things move forward. For the next few years we will be focusing our efforts on helping to diminish the identified disparity through the development and support of Black businesses and to institute training programs that will begin to address the statistically significant unemployment faced by Black men and women in Kansas City KS and Leavenworth (17%). Those numbers are off the charts and must be addressed.

Bob Jacobi, Labor Management Council (Bob.Jacobi@rockhurst.edu)

1/23/2009

Just a clarification: Please note that while the proposed ordinance doesn't have a specific labor rep on its Fairness Board, neither does KCMO Fairness board for MBE/WBE though it does for its workforce diversity board. This proposal deals only with MBE/WBE, not workforce diversity.

Thanks and please let me know if you have any questions.

Bob

Dr. Susan Courtney, Kansas City Kansas Community College (courtney@kckcc.edu)

12/30/2008

Jason--

I quickly scanned the Ordinance and it appears that items #13-17 would be a good match for KCKCC. Perhaps we can work with JCCC's SBDC and the UG to offer educational meetings to make sure the WBEs and MBEs are aware of the process for registering, preparing bids, understanding the award contract and compliance monitoring, and proper procedures for challenging an award.

The training could include samples of properly completed paperwork, checklists for submitting bids, etc. This information may already be available--if not a "How To" booklet can be prepared. Additionally, it may be a good opportunity for successful MBEs and WBEs to mentor each other. This is the kind of program that Trustee Nolen Ellison would support, because he wants to expand the focus on small businesses/entrepreneurs.

Is the current list of MBEs and WBEs current, or is there a need to make sure local MBEs and WBEs are registered? This would be a positive initiative for the community, and may also lead to identifying other training needs and employment opportunities. This would give us a chance to promote KCKCC's career and technical programs and possible identify new internship opportunities, too.

Talk to you soon!

Sue

Lazone Grays, IBSA (lazoneg@ibsa-inc.org)

12/29/2008

Attached are copies of advertisement submitted to the Topeka Capital-Journal promoting the new DBE Advisory Board members and highlights a few of the accomplishments to-date.

Starting in 2000, the City of Topeka/Shawnee County initiated a sales-tax for roads, bridges and $5M per year for economic development. From the very beginning our agency established a goal of making sure there would be an equitable distribution due to existing disparity and in the end we were able to get ten percent of the $5M dedicated to assist in the development of minority, women and disadvantaged businesses. A first in Kansas, the use of public funds to assist underutilized business concerns has strengthened M/W/DBE startups and increased public/private contracting/procurement transactions more than any existing affirmative action policy on record.

Due to a simple grassroots effort numerous years ago, a portion of the sales tax has now supported incubators, mentors, micro-loans, technical assistance, a micro-enterprise training course (FastTrac) and a few grants for graduates to setup booths at various networking events or trade shows. Without funding assistance from the Kauffman Foundation or state government.

With this email, I merely want to share some solid information relative to developing M/WBEs capacity to take on and successfully complete projects. From conversations with everyday folks in NE Wyandotte County; specially those who own a business, I am confident there is an immediate need in both Wyandotte and Leavenworth County for structured MBE programming and activities. Activities that supplement the local policies and various agreements put in place to address the significant disparity identified by analysis in reports on both Kansas City KS and Kansas City MO. Our organization and associates remain committed to helping the community and Unified Government achieve its goals for equity and diversity. It may require a little creative effort to assure ongoing fiscal support to administer the planned supplier diversity ordinance and seed other community revitalization programs, but we feel confident that obstacles can be overcome learning from the examples of best-practices made available for review.

As always, I personally look forward to any suggestions and comments, and thank you in advance for your time and consideration to the above matter.

W. Lazone Grays

Don Gardner, Principal, Moody Nolan Architects (DGardner@moodynolan.com)

12/18/2008

Hi Jason...just wanted to say that I think you and the United Government are off to a great start with respect to creating your new MBE/WBE Participation Program. Your Heart is in the right place.

I have attached for your reference some of the forms used by the City of Dallas to insure that all of their City projects have the required participation goals that the city is seeking.

I thought they might be helpful to you as you continue your quest. No need to re-create the wheel with forms and processes as a lot of times things can be simply modified to suit your needs.

Lazone Grays, IBSA, (lazoneg@ibsa-inc.org)

12/17/2008

Jason, I am also aware of the lack of response by a lot of the Black contractors in registering their business, attending pre-bid and actively participating in other networking events conducted for their betterment. Whatever is sent me me, I send it out through the email database we have, but I can attest that many of the contractors that can do the work, are technophobes at best.

They either don't have email, have it and don't check it, or have it, see the message, and do nothing with it. In some instance, the excuse for not having it or even basic computer skills dumbfounds me?

Me, you, nor anybody else can help those who won't help themselves. What I have come to understand is that these businesses need more one-on-one help in developing their attitude and then their business; as the opportunities are there. There has been such a long, persistent belief of hopelessness due to the disparities created that too many complain about what has not happened, instead of reorganizing for the future and pressing on. Many so-called community leaders and pastors are clueless to the relevancy of public policy and have yet to understand that ordinances such as what's proposed will alter the future; whether they like it or not. Something will be passed.

Nevertheless, I have come to know individuals who are vocal and well informed that live in Wyandotte County. They are known and respected on Quindaro and within the Black community better than others that would represent them from Missouri or even elected into office. They probably attend and participate in meetings better than they manage their own business, but they are the type of people needed to provide grassroots input and assist in the oversight of issues where their tax dollars and potential jobs are at issue. I always see a few certain people at meetings when I am in KCK, but rarely hear of any concrete action that has come about due to them? Which is why our agency takes a different approach.

In the proposed ordinance, the Unified Government marketplace includes areas such as Leavenworth and Johnson County which is where we also do business. Our business is with the KS Dept. of Commerce, the Workforce Partnership and on a fee-for-service basis. Targeted small minority and women business owners may be eligible for free development and support services through the Workforce Center through our agency. We tried to provide this federal funded assistance to disadvantaged businesses in Wyandotte County, but I conclude there exists a turf war and there seem to be more interest in our efforts from targeted business in the other counties such as Leavenworth.

Ordinances such as that being proposed has an impact on our agency and the programs and services we provide to small businesses in the KCK MSA. Federal funds that come to the state and Service Delivery Areas by the U.S. Dept. of Labor and HUD is what allows our agency to serve; when other agencies do not. The Workforce Partnership covers Wyandotte, Leavenworth and Johnson County and therefore, these are the counties they pay for job training, occupational training and entrepreneurial training to agencies such as IBSA. Combining these funds that are already received, with any ordinance that creates better opportunities to secure contracts for our clients, could open the door to addressing the disparity in contracts/procurement; as well as reducing the statistically high unemployment of Black men in Wyandotte (17.7%) and Leavenworth (17.8%).

I think the opportunity to establish a better business development and support service process within the disparate and overall community exist. Just as KCMO has so much reinvested in KCMO M/WDBEs *i.e. Kauffman Center/Foundation, the facilities at 4747 Troost, PTAC, JCCC, Helzberg Jewelers Program, etc,,,* and all those associations and trade organization for specific women and minority business interests i.e. KCHEDC, Hispanic Chambers, Hispanic Contractors,,, this is the type of business development infrastructure that needs to be established so it can grow with the opportunity. Just continuing to send people to Missouri for training, development and support services is not enough.

Nonprofit agencies in Wyandotte County and relational Kansas counties should play the key role on the fairness board. Organizations like the KBCC, NEBA, NEDC, Asian Chamber in Lenexa KS, Hispanic Contractors of KCK, KS Women Business Center in Lenexa, associations that represent Black contractors and business owners, and other organizations that help small locally-owned businesses that are not minority or woman owned have the individuals that can provide better insight and I don't think they would just rubber-stamp anything. Black and minority business owners our organization will be working with in the future will benefit from this ordinance and that is why I have taken such a position on this issue and participated at every moment during the Master Plan.

From this point on, our agency will ensure our NE business clients register with Unified Government and with other public and private vending directories. We will ensure they understand how to categorize their businesses more effectively, and we will continue to reach out and work with other agencies that purports to aid Black, minority and women owned businesses. In 2009, we anticipate a lot of activity in Leavenworth county which requires business development first and seizing opportunity second. We hope to apply our access to resources and information directly to help those entrepreneurs who are serious about business and to help groom those who will become the employers of the future.

The quest for equity in the ordinance is clear to me and I have no comment, but the 'fairness boards' representation and makeup is what I suggest be Kansas grown.

Again, thanks in advance for considering the suggestion noted in my first email and for considering the further explanation to why we believe the fairness board should not be represented by Missouri agencies, associations and organizations in its entirety.

Respectfully Submitted,

Lazone Grays

Willie Smith, North East Business Association (quimmus@kc.rr.com)

12/17/2008

Mr. Banks:

Because of other commitments, I will not be attending the Forum this evening. I would like to offer the following recommendations as the ordinance moves forward.

1. The terms DBE (disadvantaged business enterprise) LBE (local business enterprise) be included in the ordinance

2. Establish a MBE/WBE/DBE/LBE clearinghouse

3. Until a process is developed for goods and services contractors, establish an interim set aside program in their behalf with a specific dollar amount made available in the set aside.

4. Establish a technical support program to assist MBE/WBE/DBE/LBE enterprisess.

5. Incorporate HUD Section3 into the ordinance.

6. If LBE's are included, they should be MBE/WBE/DBE or qualify under HUD Section3, or must work with local MBE/WBE/DBE/Section 3 enterprises.

Willie Smith

Kris Blevins, Principal, Blevins and Bradbury (blevbrad@kc.rr.com)

12/11/2008

I have a few questions and comments.

Division 2 does not apply to contracts between the Unified Government and consultants (see definition 11) unless the contract is design-build.

(1) What steps, if any, is the Unified Government taking to achieve greater participation from small, minority, or women owned design firms?

(2) Many design-build projects are joint ventures between a design firm and a general contractor. For design-build projects, must the participation goal be split proportionately between the "designers" and the "builders", or may the participation goal be met solely in design (consulting) or solely in build (contracting)?

(3) Will the Unified Government database of WBE/MBE firms be divided into consultants and contractors? My firm is inundated with requests to bid on KDOT and other projects as a WBE. I used to respond to these requests by calling the contractors and telling them that we are a design firm and will never bid as a subcontractor on a project. I would then ask them to kindly remove us from their subcontractor distribution list. Fifteen years later, after repeated requests to be removed from their distribution lists, I still receive numerous requests from the same contractors. KDOT and others do not distinguish between consultants and contractors on their lists.

Everyone is listed as a contractor. I do not want to be used as proof of a contractor's "good faith effort" to find a qualified W/MBE when they knowingly send a request for subcontractor bids to a firm that is neither a supplier nor contractor for which they know they will receive no response.

Thank you for your attention to this matter.

Kris Blevins

Blevins and Bradbury, Inc.

Lazone Grays, IBSA (lazoneg@ibsa-inc.org)

12/16/2008

Considering the speed in which Unified Government is looking to pass an ordinance to address ongoing disparity in public funded procurement activities, and the necessity for a substantive policy to be in place to take advantage of immediate and future public-funded developments in Wyandotte County, our suggestion for the proposed supplier diversity ordinance is that more effort and foresight is put into comprising the 'fairness board' with Wyandotte, Johnson and Leavenworth County trade association and M/WBE business development agency representatives. As it stands, the board representation that is proposed to provide oversight on Wyandotte County Kansas procurement consists of primarily Missouri agencies and corporations.

Comparing this proposed UG ordinance with that passed in KCMO, this section on selection is a mirror to Kansas City, MO policy, word for word.

While I respect the zeal for bi-state cooperation on matters that impact the metropolitan Kansas City area, the tax dollars at issue are paid by resident property owners, business owners, renters, etc which adds to the prosperity of the local and Kansas economy first. The very people who live, work, shop, volunteer and conduct business in Wyandotte County.

With existing agencies in the county that has a history for representing the African American, minority and women business community in NE Kansas, we believe it is representation of these agencies best befitting a 'fairness board' as they represent their citizenry just as an elected or appointed official of Kansas. It is these local agencies Unified Government should look to as long-term strategic partners and to invest in them as they play the development role needed to grow businesses that can take advantage of opportunity through good policy.

Development and support services for M/WBEs go beyond just getting a certification or attending networking events, it consists of providing document preparation assistance, having physical access to business related technology via a wide-area network of agencies, and ease of access to relevant procurement/contracting information at all these locations in a timely manner. The ordinance is just the beginning, the journey still has steps; which should lead to a foundation that many entrepreneurs will use in the future to effectively compete for available contracts; public or private.

It seems unnatural for a Kansas County to have a 'fairness board' comprised of Missouri associations? It diminishes the hard work and expertise available from business development agencies that exist in Wyandotte, Johnson and Leavenworth County. Exclusion of county agencies takes away the opportunity for citizens with the most vested interest to be included and active in the overall process and oversight of an issues that impacts their pocket book.

The disparity study that precipitated this policy of change hinges on the statistically significant disparity found between minority, women and majority-owned businesses in Wyandotte County Kansas. From a Black perspective, I'll use as a base-point that Black construction contractors only received $70,000 out of the $54M spent in the period covered in the study. Having discussed this issue with many qualified Black craftsmen whom just happen to own a business, it has not been a matter of not wanting to work, work not being available, or an inability to secure the financing to complete a job,,, it really rests on past policies and practices that let a process a thwarts equity; than restore, fosters and achieves it.

In the interests of stepping forward to take an active role in the community, Unified Government officials, departments heads and staff know minority agencies in NE Wyandotte neighborhoods, and it our recommendation and suggestion that they should be considered as representatives as the decisions are being made on the spending of the tax dollars they generate. They live in and therefore answer to their neighbors, the community and have been the voice for their constituents on this issues and others that impact their immediate community.

The Missouri agencies identified in the proposed UG ordinance do play a role in some way or another, and as needed, entrepreneurs should be referred their way, but I think it is in the best interest of this policy to harvest talent for the 'fairness board' from within and utilize the targeted expertise the other agencies have to offer as needed.

Respectfully Submitted

Lazone Grays

Royal Scott (nedci@yahoo.com)

12/11/2008

I am requesting to be a part of the committee to draft the supplier disparity ordinance. I represent the black clergy through the Baptist Minister Union and also the CDC's of the Northeast Area. Because this will have a direct effect on jobs for minority in the NE area and especially males, there should be a voice from the clergy and community and especially the NE area

Rev. Royal Scott

Bernardo Ramirez, Hispanic Economic Development Corporation (bramirez@kchedc.org)

2/05/2008

Dear Mr. Banks:

On behalf of the Hispanic Economic Development Corporation (HEDC), I am writing to submit comments regarding the *Supplier Diversity ordinance* as it relates to Chapter 18 of 1988 Code of Ordinances, City of Kansas City, Kansas.

After careful review, I would like to make the following suggestions:

Although the ordinance relates specifically to construction and subcontracting, the Unified Government should be aware that other industries exist and the potential of supplier diversity should include optional access to these other industries.

The amount of, "...exceeds $100,000..." (Sec 18-152. Definitions) seems more than what our micro-businesses are able to participate with. A lower amount may be more appropriate.

The ordinance should include technical assistance resources and financial support for existing business-consulting providers. These are entities that can prepare businesses for submitting bids when appropriate, among other things. For example, this can include assistance for Limited-English-Proficient businesses.

Regarding Sec. 18-171, *Contract Fairness Board,* (c) should be staggered terms initially. This ensures continuity on the board rather than having to change a full board every four years.

In addition, a co-chair should be selected to avoid selection at every meeting that the chair is not in attendance.

The Unified Government must be careful not to target businesses based on only "*...citizens of the United States or lawful permanent residents of the United States...*" as stated in Sec. 18-152. Definitions. There are businesses that exist within the boundaries of the Unified Government where owners do not fit this description.

We appreciate the opportunity to submit comments regarding this ordinance. If any questions arise, feel free to contact me at (816) 221-3442 or by email bramirez@kchedc.org.

Paul Rodriguez, Hispanic Contractors Association of Greater Kansas City (paul@rmckc.com)

1/10/2008

Jason,

I believe that the new proposed ordinance will be in need of proper funding if a desired successful program is intended to be. What can I do now to promote adequate funding?

Paul Rodriguez

Attachment B

Contact / Agency Name	**Email**
A. Marie Young	amariey@bcckc.org
Alise Martiny	amartiny@buildersassociation.com
Ashlea Blue	Ashlea_Blue@kcmo.org
Bob Jacobi	Bob.Jacobi@rockhurst.edu
Brian Hernandez	brian_hernandez@kcmo.org
Builder's Association	info@buildersassociation.com
Business West	murrel@mcbconsultinginc.com
Cordell Meeks	mmctraining@multiculturalconsulting.com
Denise Farris	dfarris@farrislawfirm.com
Evolv Solutions	rharland@evolvsolutions.com
Gabe Perez	grperez@everestkc.net
Globe	minoritypress@sbcglobal.net
GSA	pat.brown-dixon@gsa.gov
Heavy Constructors	edesoignie@heavyconstructors.org
Heavy Constructors 2	erdes@swbell.net
'Hispanic Chamber of Commerce of Greater KC'	jsanchez@hccgkc.com
Hispanic Chamber of Commerce of Greater KC 2	cgomez@hccgkc.com
IBSA (admin@ibsa-inc.org)	admin@ibsa-inc.org
Jerry Adriano	Adriano_Associates@hotmail.com
John Mendez	mendezjohnj@yahoo.com
'Kansas African American Affairs Commission'	Santanna.white@ks.gov
'Kansas Black Chamber'	chrwats@kckps.org
Kansas Black Contractors Association	barnesemmanuel60@yahoo.com
'Kansas City Chamber'	waltz@kcchamber.com
'Kansas Contractors Association'	kca@ink.org
'Kansas Department of Commerce'	rharris@kansascommerce.com
Kansas Women's Business Center	kpruneau@kansaswbc.com
KC Hispanic News	kchnews@swbell.net
'KCATA'	dbradshaw@kcata.org
KC-CWBO	nancyz@motional.com
KCHEDC	bramirez@kchedc.org
KCK Chamber 1	Cindy@KCKChamber.com
KCK Chamber 2	patrick@kckchamber.com
'KCMO Human Relations Department'	humanrelations@kcmo.org
'KS Dept. of Transportation'	dhepp@ksdot.org
Latoria Chinn	lchinn@kansasspeedway.com
MAMBDC 1	Lonnie.Scott@mambdc.org
MAMBDC 2	chris.kelly@mambdc.org
MAMBDC 3	Ronald.Hopkins@mambdc.org
Maurice Gray	mgray853@earthlink.net
'Minority Contractors Association'	mcakcmo@sbcglobal.net
'Missouri General Contractors'	gwehmeyer@agcmo.org
'MO Dept. of Transportation'	donnetta.cole@modot.mo.gov
'MO Office of Administration'	donna.white@oa.mo.gov

MO Office of Administration 2	roxana.flores@oa.mo.gov
MODOT DBE Supportive Services Program (pat@pstrada.com)	pat@pstrada.com
NAWIC	rosana.priviterabiondo@markone.com
NECA	kcborden@kcneca.com
'Northeast Business Association'	quimmus@kc.rr.com
Paul Rodriguez	paul@rmckc.com
Phillip Yelder	phillip_yelder@kcmo.org
Purchase	Purchase@wycokck.org
Raymond Malone	raymond.malone@sbcglobal.net
Royal Scott	nedci@yahoo.com
Sheila Williams	Sheila_Williams@kcmo.org
'Small Business Administration'	kathy.devoe@sba.gov
Sook Park	sook_park@asianchamberkc.com
The Builder's Association	dgreenwell@buildersassociation.com
Wayne Yang	xfwayne@hmongvillage.com
'Women's Business Enterprise National Council'	support@wbenc.org
Workforce Partnership	scotta@workforcepartnership.com

Attachment C

(1) Based on feedback from the Public and the Commission, we have adjusted the makeup of the Contract Fairness Board to include more Local representation. The current members are as follows:

- One member and one alternate recommended by the Builders' Association;
- One member and one alternate recommended by the Heavy Constructors' Association;
- One member and one alternate recommended by the *Kansas Black Chamber of Commerce;
- One member and one alternate recommended by the *Hispanic Contractors Association of Greater Kansas City, Inc.;
- One member and one alternate recommended by the Women Construction Owners and Executives and National Association of Women in Construction;
- One member and one alternate recommended by the *Kansas City, Kansas Chamber of Commerce; and
- A chairperson appointed by the Mayor.

*WYCO based agency

(2) In order to track the impact of the Ordinance on Local Business Participation, an additional duty was added to responsibilities of the Coordinator. The language reads:

- "To collect and maintain data on the residency of all contractors, subcontractors, and suppliers who participate on contracts subject to division 2 of this article"

The addition of this provision ensures that we collect the necessary data to support any future changes regarding LBE utilization.

(3) The original definition of Commercially Useful Function was expanded to add clarification as to what work would count towards M/WBE participation. The expanded definition reads:

- *Commercially useful function* means real and actual services that are a distinct and verifiable element of the contracted work based upon private sector trade or industry standards. An MBE or WBE performs a commercially useful function when it is responsible for executing the ordinary and necessary work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether an MBE or WBE is performing a commercially useful function, all relevant factors will be evaluated, including the following:
  a. The amount of work subcontracted;
  b. Industry practices;
  c. Whether the amount the MBE or WBE is to be paid under the contract is commensurate with the work it is actually performing;
  d. Whether the MBE or WBE has the skill and expertise to perform the work for which it is being utilized;
  e. Whether the MBE or WBE is responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering, installing (where applicable), and paying for the material and supplies itself; and
  f. The credit claimed for its performance of the work.

ADMINISTRATOR'S AGENDA ITEM NO. 3

Staff Request for Commission Action

Tracking No. 090058

☐ Revised
☐ On Going

APPROVED BY FEB 19 2009
UNIFIED BOARD OF COMMISSIONERS

Type: **Standard**

Committee: Full Commission

Date of Standing Committee Action:	2/13/2009
(If none, please explain):	No standing committee because previous full Commission presentation

Proposed for the following Full Commission Meeting Date: 2/19/2009

Confirmed Date: 2/19/2009

☐ **Changes Recommended By Standing Committee (New Action Form required with signatures)**

Date:	Contact Name:	Contact Phone:	Contact Email:	Ref:	Department / Division:
2/13/2009	Henry E. Couchman Jr.	913-573-5672	hcouchman@wycokck.org	hec	Legal

Item Description:

Attached supplier diversity ordinance; memorandum from Jason Banks to Mayor Reardon summarizing public comments; electronically submitted comments; contact list; summary of key changes.

Action Requested:

Approval of ordinance

☑ Publication Required

Budget Impact: (if applicable)

Amount: $

Source:

☐ Included In Budget

☐ Other (explain)

Staff Request for Commission Action

Tracking No. 15266

Full Commission Meeting Date: 11/30/2015
Committee: Administration & Human Services

Date of Standing Committee Action: 11/30/15 (If none, please explain):

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
11/19/2015	Joe Connor, Assistant County Administrator	x6724	jconnor@wycokck.org	Administrator's Office

Item Description:

Staff is in receipt of a proposal from Anytime Fitness to utilize Joe E. Amayo Argentine Community Center to operate a 24-hour fitness center. This proposal would require renovations to the facility along with a management agreement. This would change the use pattern for a portion of the facility as the fitness center would require membership. Staff is looking for input on this proposed change of use before pursuing funding opportunities for the renovations and other required activities.

Action Requested:
For discussion only

Budget Impact: (if applicable)
Amount:
Source:
Included In Budget:
Other (explain):

Attachments List:

Godsil, Carol

From: Godsil, Carol
Sent: Thursday, November 19, 2015 1:28 PM
To: 'Vonzel Sawyer'
Subject: RE: Disability Parking Request
Attachments: Vonzel Sawyer.pdf

Your request has been approved to appear before the November 30th standing committee. See attachment for details.

From: Godsil, Carol
Sent: Wednesday, October 21, 2015 12:14 PM
To: Vonzel Sawyer
Subject: RE: Disability Parking Request

Your request to appear before standing has been received. The Public Works agenda for this month has already been set. I will take your request to the next standing committee agenda review on November 19 (for the November 30 meeting). I will provide you an update Nov. 19 before noon.

From: Vonzel Sawyer [mailto:vonzel.sawyer@newbethelkc.org]
Sent: Tuesday, October 20, 2015 3:26 PM
To: Godsil, Carol
Subject: Disability Parking Request

Ms Godsil,

My name is Elder Vonzel Sawyer. I am a minister at New Bethel Church, 745 Walker Avenue, KCK and President of the NBC Community Development Corporation.

We are requesting an audience before the Unified Government Standing Committee for Public Works. Our ask is to reserve four disabled parking spaces at our church location to accommodate those with disabilities with closest access to the church front door.

We would like the opportunity to show this to be a simple request that would aid the disabled church attendees without impeding the rights or privileges of our neighbors.

Thank you,

Elder Vonzel Sawyer

--
Vonzel D Sawyer
New Bethel Church
(913) 281-1993 ext 103 office
(913) 219-6099 cell
vonzel.sawyer@newbethelkc.org
www.newbethelkc.org

Unified Government Clerk's Office

Bridgette D. Cobbins
Unified Government Clerk

701 North 7th Street, Suite 323
Kansas City, Kansas 66101-3064

Phone: 913-573-5260
Fax: 913-573-5229
http://www.wycokck.org

November 19, 2015

Elder Vonzel Sawyer
New Bethel Church
745 Walker Avenue
Kansas City, KS 66101
vonzel.sawyer@newbethelkc.org

Pastor Sawyer:

This is to confirm that your request to appear before a standing committee to request four disabled parking spaces at your church location has been approved for the following standing committee:

COMMITTEE: Administration and Human Services Standing Committee
DATE: Monday, November 30, 2015
TIME: 6:00 p.m.
LOCATION: Municipal Office Building
701 North 7th Street, 5th floor conference room (Suite 515)
Kansas City, KS 66101

You will be given up to three minutes to present your request. All comments must pertain to the subject matter.

If you have any questions, do not hesitate to contact me at 573-5263.

Sincerely,

Carol Godsil

Carol Godsil
Deputy UG Clerk