Memorandum

DATE: July 31, 2020

TO: Honorable Mayor and Members of the City Council

SUBJECT: Availability and Disparity Study Recommendations

On Wednesday, August 5, 2020 you will be briefed on the availability & disparity findings and proposed minority/women-owned business goals. In September 2018, the City retained MGT of America Consulting, LLC (MGT) to conduct the availability and disparity study. The objective of the study was to determine if there were any disparities between the City's utilization of minority and/or women-owned business enterprises (M/WBEs) compared to the availability of M/WBEs in the marketplace who are ready, willing, and able to perform work. The study was executed to determine if a legally justified need exists for the continuation of a M/WBE program in accordance with the guidelines set forth by the Supreme Court and relevant subsequent cases.

The study period was October 2014 to September 2018 and was based on statistical payment data. The findings and recommendations from this study will be used to shape an improved business inclusion policy that creates opportunities for minority and women vendors, builds capacity of minority and women vendors, and executes diversity compliance in contract awards.

MGT has prepared the attached Availability and Disparity Study findings and recommendations.

The Office of Business Diversity has included the current status of recommendations and will highlight accomplishments during the briefing. Please feel free to contact me if you have any questions or should you require additional information.

Zarin D. Gracey
Director
Office of Business Diversity

c: T.C. Broadnax, City Manager
    Chris Caso, City Attorney
    Mark Swann, City Auditor
    Bilierae Johnson, City Secretary
    Preston Robinson, Administrative Judge
    Kimberly Bizor Tolbert, Chief of Staff to the City Manager
    Majed A. Al-Ghafr, Assistant City Manager
    Jon Fortune, Assistant City Manager
    Joey Zapata, Assistant City Manager
    Nadia Chandler Hardy, Assistant City Manager
    Dr. Eric A. Johnson, Chief of Economic Development and Neighborhood Services
    M. Elizabeth Reich, Chief Financial Officer
    Laila Alequresh, Chief Innovation Officer
    M. Elizabeth (Liz) Cedillo-Pereira, Chief of Equity and Inclusion Directors and Assistant Directors

“Our Product is Service”
    Empathy | Ethics | Excellence | Equity
AGENDA

- Study History
- Study Objective
- Study Framework
- Study Methodology
- Relevant Market Area
- Key Findings
- Key Recommendations
STUDY HISTORY

- **1994**: Commissioned the first Availability and Disparity Study
  - Found: Disparity exists in Prime contracting categories for all M/WBEs and in subcontracting category for African American and Asian American

- **2001**: Commissioned an updated Availability and Disparity Study
  - Found: No overall disparity but significant M/WBE availability identified

- **2003**: Commissioned a “But/For” study.
  - Found: Anecdotal findings indicated but for the City’s M/WBE program, utilization of M/WBE participation would be significantly less

- **2004**: Adopted the Availability and Disparity study findings

- **1989-91**: Performed an in-house A&D Study
  - Found: Based solely on vendor database and did not analyze availability within larger market
STUDY OBJECTIVE

Determine if a significant statistical disparity exists between the percentages of available, qualified minority- and woman-owned business enterprise (M/WBE) firms and the dollars paid to such firms in the City’s procurement and contracting.
STUDY FRAMEWORK

- Study Period: October 2014 – September 2018
- Study is based on payment data
- Procurement categories analyzed:
  - Construction
  - Architecture & Engineering
  - Professional Services
  - Other Services
  - Goods & Supplies
# Business Ownership Classifications

<table>
<thead>
<tr>
<th></th>
<th>MBE</th>
<th>Non-M/WBE</th>
</tr>
</thead>
<tbody>
<tr>
<td>African American</td>
<td>MBE Minority Owned Business</td>
<td>Non-M/WBE</td>
</tr>
<tr>
<td>Asian American</td>
<td>MBE Minority Owned Business</td>
<td></td>
</tr>
<tr>
<td>Hispanic American</td>
<td>MBE Minority Owned Business</td>
<td></td>
</tr>
<tr>
<td>Native American</td>
<td>WBE Women Owned Business Enterprise</td>
<td></td>
</tr>
<tr>
<td>Non-minority Woman</td>
<td>WBE Women Owned Business Enterprise</td>
<td></td>
</tr>
<tr>
<td>Non-minority Male</td>
<td>Non-M/WBE</td>
<td></td>
</tr>
</tbody>
</table>
STUDY METHODOLOGY

1. Reviewed and established the legal framework for conducting disparity studies
2. Completed tasks to determine M/WBE utilization, availability, and disparity based on the legal framework established by *Croson* and relevant cases
3. Used payment data to determine utilization and relevant market area
4. Used industry accepted “custom census” approach
   - Surveyed firms registered with Dun & Bradstreet:
     - Located in the market area
     - Provide services or goods purchased by the City
     - Determined willingness
     - Collected ethnicity/race/gender data
STUDY METHODOLOGY - Continued

5. Used a multi-prong approach to collecting anecdotal input.
   a. Data collected through:
      ▪ In-Depth interviews with business owners
      ▪ In-Depth interviews with stakeholders
      ▪ Public Meetings
      ▪ Focus Groups
      ▪ Surveys
   b. Outreach Efforts:
      ▪ Email blasts
      ▪ Direct calls
      ▪ Trade associations and business organizations
      ▪ Printed and digital ads
RELEVANT MARKET AREA

- Requires a defined area to ensure that a relevant pool of vendors is considered in analyzing the availability and utilization of firms
- Includes the geographic areas from which the majority of the City’s purchases are procured
- Relevant Geographic Market Area: Dallas-Fort Worth-Arlington MSA (“Dallas MSA”)
  - Collin County, Dallas County, Denton County, Ellis County, Hood County, Hunt County, Johnson County, Kaufman County, Parker County, Rockwall County, Somervell County, Tarrant County and Wise County
- Relevant market area established the framework for utilization, availability, disparity, private sector, and anecdotal analyses
- Relevant market established the basis for future M/WBE outreach and reporting
KEY FINDINGS – M/WBE UTILIZATION

Study Period: October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY
ALL CONTRACT TYPES

Study Period: October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY
ARCHITECTURE & ENGINEERING

Study Period: October 2014 – September 2018
### KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY CONSTRUCTION

<table>
<thead>
<tr>
<th></th>
<th>MBE FIRMS</th>
<th>WBE FIRMS</th>
<th>TOTAL M/WBE FIRMS</th>
<th>NON-M/WBE FIRMS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONSTRUCTION UTILIZATION</strong></td>
<td>22.35%</td>
<td>5.58%</td>
<td>27.94%</td>
<td>72.06%</td>
</tr>
<tr>
<td><strong>CONSTRUCTION AVAILABILITY</strong></td>
<td>22.92%</td>
<td>15.39%</td>
<td>38.31%</td>
<td>61.69%</td>
</tr>
</tbody>
</table>

**Study Period:** October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY
PROFESSIONAL SERVICES

Study Period: October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY OTHER SERVICES

Study Period: October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION AND AVAILABILITY
GOODS & SUPPLIES

Study Period: October 2014 – September 2018
KEY FINDINGS – M/WBE UTILIZATION/AVAILABILITY BY ETHNICITY/GENDER
## Key Findings – M/WBE Utilization/Availability by Ethnicity/Gender

<table>
<thead>
<tr>
<th></th>
<th>A&amp;E</th>
<th>Construction</th>
<th>Professional Services</th>
<th>Other Services</th>
<th>Goods</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Utilized</td>
<td>Available</td>
<td>Utilized</td>
<td>Available</td>
<td>Utilized</td>
<td>Available</td>
</tr>
<tr>
<td><strong>African American</strong></td>
<td>7.43%</td>
<td>6.04%</td>
<td>4.94%</td>
<td>3.45%</td>
<td>7.90%</td>
<td>16.05%</td>
</tr>
<tr>
<td><strong>Asian American</strong></td>
<td>9.19%</td>
<td>5.98%</td>
<td>0.91%</td>
<td>1.77%</td>
<td>6.94%</td>
<td>6.14%</td>
</tr>
<tr>
<td><strong>Hispanic American</strong></td>
<td>9.82%</td>
<td>11.71%</td>
<td>15.26%</td>
<td>16.54%</td>
<td>4.02%</td>
<td>5.05%</td>
</tr>
<tr>
<td><strong>Native American</strong></td>
<td>0.23%</td>
<td>0.71%</td>
<td>1.24%</td>
<td>1.15%</td>
<td>0.00%</td>
<td>0.00%</td>
</tr>
<tr>
<td><strong>Non-Minority Women</strong></td>
<td>5.79%</td>
<td>12.42%</td>
<td>5.58%</td>
<td>15.39%</td>
<td>11.88%</td>
<td>21.50%</td>
</tr>
<tr>
<td><strong>Non-Minority Male</strong></td>
<td>67.54</td>
<td>63.13%</td>
<td>72.06%</td>
<td>61.69%</td>
<td>69.26%</td>
<td>67.81%</td>
</tr>
</tbody>
</table>
### KEY FINDINGS – M/WBE DISPARITY

<table>
<thead>
<tr>
<th>Procurement Category</th>
<th>All</th>
<th>Architecture &amp; Engineering</th>
<th>Construction</th>
<th>Professional Services</th>
<th>Other Services</th>
<th>Goods &amp; Supplies</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE</td>
<td>Disparity*</td>
<td>No Disparity*</td>
<td>Disparity</td>
<td>Disparity*</td>
<td>No Disparity*</td>
<td>Disparity*</td>
</tr>
<tr>
<td>WBE</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
</tr>
<tr>
<td>M/WBE</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>Disparity*</td>
<td>No Disparity*</td>
<td>Disparity*</td>
</tr>
</tbody>
</table>

* Indicates statistical significance.

**BOLD** Indicates a substantial level of disparity, which is a disparity index below 80.00.

Study Period: October 2014 – September 2018
KEY FINDINGS – ANECDOTAL ANALYSIS

- Data Collection
  - 130 attendees at two public engagement meetings
    - 29 gave testimonies
  - 75 In-Depth Interviews
  - 2 Focus Groups with Area Trade Associations and Business Organizations
  - 421 Completed Vendor Surveys

- Suggested Remedies by Business Owners/Stakeholders
  - Publicly release results of bids and proposals
  - Hold firms accountable to meet M/WBE goals
  - Enforce compliance of the program for all bidders/proposers
  - Create a broader awareness of contracting opportunities for primes and subcontractors
  - Establish a vendor/subcontractor rotation process to broaden the pool of firms working on City contracts and projects
COMMENDATIONS

- **Commendation:** Implemented a subcontractor utilization payment module
- **Commendation:** Conducting quarterly training meetings
- **Commendation:** Conducting pre-submission meetings
- **Commendation:** Forming a Business Diversity Taskforce
RECOMMENDATIONS

- **Recommendation:** Continue narrowly tailored M/WBE program with new goals
  - Set annual aspiration goals
  - Set project specific goals
- **Recommendation:** Enhance M/WBE compliance efforts
  - Regular site visits and project audits
- **Recommendation:** Diversify supplier utilization
  - Vendor rotation, joint venture, emerging vendor programs
- **Recommendation:** Increased/Additional Outreach
  - Workshops, marketing, professional development and overall capacity building of M/WBE firms
- **Recommendation:** Develop relationships with business organizations
  - Public sector advisory board, to develop and institute “best practices”, build capacity and capabilities
RECOMMENDATIONS – ASPIRATIONAL M/WBE GOALS

MGT found sufficient evidence of disparity to recommend the continuation of the Business Inclusion program to address identified disparities.

<table>
<thead>
<tr>
<th>CONTRACT CATEGORY</th>
<th>CURRENT M/WBE GOALS</th>
<th>UTILIZATION</th>
<th>AVAILABILITY</th>
<th>PROPOSED M/WBE GOALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;E</td>
<td>25.60%</td>
<td>32.46%</td>
<td>36.86%</td>
<td>34.22%</td>
</tr>
<tr>
<td>Construction</td>
<td>25.00%</td>
<td>27.94%</td>
<td>38.30%</td>
<td>32.09%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>36.30%</td>
<td>30.74%</td>
<td>50.92%</td>
<td>38.81%</td>
</tr>
<tr>
<td>Other Services</td>
<td>23.80%</td>
<td>39.04%</td>
<td>32.18%</td>
<td>N/A</td>
</tr>
<tr>
<td>Goods and Supplies</td>
<td>18.00%</td>
<td>26.60%</td>
<td>41.00%</td>
<td>32.36%</td>
</tr>
</tbody>
</table>

The proposed goals are based on a weighted average of M/WBE utilization and availability. Aspirational goals should be based on relative M/WBE availability. Current MWBE goals were adopted in 1994.
RECOMMENDATIONS – M/WBE UTILIZATION BY YEAR

<table>
<thead>
<tr>
<th></th>
<th>FY 14</th>
<th>FY 15</th>
<th>FY 16</th>
<th>FY 17</th>
<th>FY 18</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;E</td>
<td>23.1%</td>
<td>31.3%</td>
<td>31.3%</td>
<td>21.9%</td>
<td>14.1%</td>
</tr>
<tr>
<td>Construction</td>
<td>27.3%</td>
<td>30.1%</td>
<td>26.1%</td>
<td>26.7%</td>
<td>27.2%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>21.9%</td>
<td>35.0%</td>
<td>34.0%</td>
<td>34.0%</td>
<td>50.0%</td>
</tr>
<tr>
<td>Other Services</td>
<td>36.2%</td>
<td>34.0%</td>
<td>38.8%</td>
<td>37.8%</td>
<td>32.4%</td>
</tr>
<tr>
<td>Goods &amp; Supplies</td>
<td>26.1%</td>
<td>27.1%</td>
<td>25.5%</td>
<td>29.5%</td>
<td>23.6%</td>
</tr>
<tr>
<td>All</td>
<td>26.1%</td>
<td>26.6%</td>
<td>26.6%</td>
<td>26.6%</td>
<td>26.2%</td>
</tr>
</tbody>
</table>

Study Period: October 2014 – September 2018

City of Dallas
Availability & Disparity Study
MGT Consulting Group
## KEY RECOMMENDATION NEXT STEPS

### Continue narrowly tailored M/WBE program with new goals

<table>
<thead>
<tr>
<th>Set annual aspirational M/WBE Goals</th>
</tr>
</thead>
</table>
| Establishes annual overall M/WBE targets across all procurement types (Architecture & Engineering, Construction, Professional Services, and Goods) to address identified disparities that will continue to be included in Business Diversity performance measures | • Update new Business inclusion policy to reflect new goals  
• The current Dallas 365 performance goals is:  
  • The annual M/WBE spend will increase from 25.0% to 30.0%  
  • Staff will work with CAO to develop the new policy and bring back to Council for approval in September  
  • Effective 10/01/2020 |

### Set project specific goals

| Establishes M/WBE goals by contract category with an option to waive the M/WBE goal where there is no, or limited availability | • Staff currently reviews over 400 contracts on an annual basis  
• Goals are sometimes waived or lowered where there is a lack of availability  
• This will be formally documented in the M/WBE admin. guide  
• Effective 10/01/2020 |

### Develop departmental M/WBE performance review metric

| Includes M/WBE utilization into the performance review process for department heads and other employees with procurement authority | • Staff will work with the City Manager’s office to develop M/WBE utilization performance metrics for key departments that align with new M/WBE goals  
• Effective 10/01/2020 |
## KEY RECOMMENDATIONS

### Enhance M/WBE Compliance Efforts

**Perform regular project site visit audits**
- Ensures compliance with the business inclusion program while being proactive instead of reactive
  - In the process of developing a bi-weekly site visit schedule based on contract size or subcontractor concerns
  - Effective 10/01/2020

**Develop a specification review team**
- Encourages equity and competition by ensuring barriers are removed and creates opportunities for new competitors
  - Business Diversity and Procurement Services are working to establish a specification review team and procedures to ensure competition, opportunity, and efficiency
  - Business Diversity will work with DWU, Aviation, Public Works, Building Services, and Parks to develop a specification review team for architecture & engineering and construction contracts
  - Effective 10/01/2020

### Clearer definition and expectations of good faith efforts

**Strengthens good-faith effort criteria**
- Includes outreach to the ethnic contractors associations, chambers, and/or ethnic newspapers
  - Will be included in specification language
  - Effective 10/01/2020
## KEY RECOMMENDATIONS

### Enhance M/WBE Compliance Process – Continued

**Develop non-compliance penalties**

| Enforces prime and subcontractor accountability | • Tier I – Placed on a 1 year non-compliance probation which includes notifications to project managers and department directors  
| | • Tier II – Brought before City Council to consider being sanctioned for up to 2 years  
| | • Violations include (but not limited to): Changing subcontractors without properly notifying the Office of Business Diversity and subcontractor; Closing out projects without fulfilling the M/WBE good faith process; or Self-performing scopes of work that was committed to an M/WBE subcontractor  
| | • Effective 10/01/2020 |

**Prompt payment enforcement – Effective 10/01/2020**

| Government Code Section 2251.022 requires prime contractors to pay subcontractors within ten (10) days from receipt of payment from the City | • Continue using the M/WBE compliance system to monitor payments to prime contractors from the City and payments from prime contractors to subcontractors on a monthly basis  
| | • Effective 10/01/2020 |

**Make changes to evaluation criteria**

| Updates existing criteria to include an evaluation of prime contractor’s utilization of M/WBEs on private sector contracts | • 15 current total business inclusion evaluations points  
| | • Staff will bring recommended breakdown of those 15 points back to council with the September policy update  
| | • Effective 10/01/2020 |
## KEY RECOMMENDATIONS

### Diversify Supplier Utilization

**Establish a job order or master agreement task order contracting model**

Creates opportunities for a diverse pool of qualified small and minority vendors while encouraging competition and potentially lowering City costs

- Staff will work with Procurement Services and construction departments to develop a pool of qualified vendors on applicable contracts to utilize on a rotating basis for a set period of time
- Effective 10/01/2020

**Establish an emerging vendor program**

Allows Small Business Enterprises (SBEs) to compete and self-perform at the prime contracting level.

- Staff will work with CAO, departments, and Business Diversity Task Force to determine contract values and bring back to City Council
- Effective Q2 FY20-21

**Establish a joint venture program**

Allows M/WBEs to partner with each other or larger companies in order to gain experience as a prime contractor while increasing bonding capacity as one entity.

- The City has historically utilized joint ventures on procurements
- Staff will formalize the program and consider awarding evaluation points for joint ventures and will bring back to City Council
- Effective Q2 FY20-21

**Establish a mentor/protégé program**

Encourages prime contractors to participate in a formal mentor protégé program to increase the number of business ready, willing, and able to do business with the City of Dallas

- Currently being developed through the Broadening Urban Investment to Leverage Dallas (B.U.I.L.D.) program
- Will be developed across multiple industries
- Effective 10/01/2020
## KEY RECOMMENDATIONS

### Diversify Supplier Utilization - Continued

| Establish an owner controlled insurance program | • Staff will be exploring this further in consultation with CAO and the Business Diversity Taskforce and will bring a proposed plan back to the City Council  
• Effective Q2 FY20-21 |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>An owner controlled insurance policy owned by the City during on construction projects designed to cover virtually all liability and loss from the construction project. Creates opportunities for emerging general contractors to work on City projects and increasing competition</td>
<td></td>
</tr>
</tbody>
</table>

---

### City of Dallas

**Availability & Disparity Study**

---

**MGT CONSULTING GROUP**
## KEY RECOMMENDATIONS

### Develop a formal strategy for business relationships with organizations

<table>
<thead>
<tr>
<th>Develop a public sector council to advise on increased capacity best practices</th>
</tr>
</thead>
</table>
| Revamp Diversity Taskforce to include key public sector entities to advise on industry best practices, new programs, and opportunities for improvement | • The Business Diversity Taskforce was formally established in FY18-19  
• The taskforce will continue to focus on best practices utilizing the recommendations from the availability and disparity study  
• Effective 10/01/2020 |

### Increase outreach

| Creates an opportunity to connect small businesses to resources, M/WBE certification, and contracting opportunities that have historically been overlooked | • In addition to businesses located in Dallas County, B.U.I.L.D.’s outreach strategy includes connecting local businesses located in LMI census tracks to the resources within the B.U.I.L.D. ecosystem  
• Effective Q1 FY20-21 |

### Increase technical assistance

| Incorporates frequent meetings with local organizations that support M/WBEs to better coordinate available assistance and support to M/WBEs | • B.U.I.L.D.’s outreach strategy focuses on the “hand-off” of businesses between business service organizations  
• Effective Q1 FY20-21 |
NEXT STEPS

- Accept and approve the availability and disparity report
- Approve the proposed M/WBE goals and business inclusion policy
- Scheduled for the September 23, 2020 Council Agenda
- Effective October 1, 2020

*Current M/WBE goals will expire September 30, 2020*
QUESTIONS & ANSWERS

Zarin D. Gracey
Office of Business Diversity
214.412.4518
Zarin.Gracey@dallascityhall.com

Reginald Smith
MGT Consulting
850.386.3191
www.mgtconsulting.com
cityofdallasdisparitystudy@mgtamer.com

For more information about the disparity study visit: www.cityofdallasdisparitystudy.com