

ADMINISTRATIVE GUIDELINES
FOR THE
EQUAL BUSINESS OPPORTUNITY-CONSTRUCTION POLICY

February 2016
CITY OF GRAND RAPIDS

**CITY OF GRAND RAPIDS
ADMINISTRATIVE GUIDELINES FOR
EQUAL BUSINESS OPPORTUNITY-CONSTRUCTION POLICY**

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1: FOREWORD	1
1.1 Authority, Purpose and Applicability.....	1
1.2 Adoption by Reference.....	2
SECTION 2: DEFINITIONS.....	2
2.1 Definitions.....	2
SECTION 3: DOCUMENTATION OF SUBCONTRACTOR PARTICIPATION.....	10
3.1 List of Subcontractors.....	10
SECTION 4: DATA MANAGEMENT	10
4.1 Tracking, Monitoring and Reporting	10
4.2 Forecasting	12
SECTION 5: BID DISCOUNTS	13
5.1 Eligibility for Bid Discounts	13
5.2 Validation.....	18
5.3 Use of Subcontractor's Annual Bid Discounts.....	20
SECTION 6: TARGET MARKET PROGRAM	20
6.1 Target Market Projects.....	21
6.2 Criteria For Determining Eligible Target Market Businesses	21
6.3 Identification and Listing of Eligible Target Market Businesses	22
SECTION 7: MENTOR PROTÉGÉ PROGRAM.....	22
7.1 Eligibility Requirements	22
7.2 Mentor Protégé Agreement.....	23
7.3 Protégé as a Subcontractor	24

TABLE OF CONTENTS (Continued)

	<u>Page</u>
SECTION 8: OTHER STRATEGIES	25
8.1 Business Development Assistance	25
8.2 Business Incubators	25
8.3 Bonding Assistance	26
8.4 Financial Assistance	26
8.5 Communication and Outreach	27
8.6 Training	28
SECTION 9: SUBCONTRACTOR PAYMENT	28
9.1 Prompt Payment Clause	28
9.2 Payment Certification	28
SECTION 10: CHANGE ORDERS AND EMERGENCY BIDS	28
SECTION 11: DIRECTORIES AND LISTS	29
SECTION 12: CONTRACT SANCTIONS	29
SECTION 13: APPEALS AND EXCEPTIONS	29
13.1 Appeal of Administrative Decisions	29
13.2 Appeal of Community Relations Commission Decisions	30
13.3 Exception to the EBO-Construction Policy Requirements	31
SECTION 14: FIELD EXAMINATIONS	32
SECTION 15: SEVERABILITY	32

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

SECTION 1: FOREWORD

1.1 AUTHORITY, PURPOSE AND APPLICABILITY

These Guidelines are promulgated by the City Manager pursuant to authority granted to the City Manager under the Equal Business Opportunity-Construction Policy (EBO - Construction Policy) adopted by the City Commission on the 23rd day of December 2003, and amended on the day of February 2016, which EBO-Construction Policy is expressly incorporated herein by reference and made a part hereof.

In support of the City's Mission Statement and City Commission Sustainability Plan, the purpose of these Administrative Guidelines is to:

- A. Ensure non-discrimination in the performance and administration of City contracting and subcontracting;
- B. Promote supplier diversity by providing all business enterprises access and an equal opportunity to participate on the performance of all city contracts;
- C. Utilize strategies that enhance the growth and development of local, small and emerging businesses;
- D. Establish requirements which must be met by all contractors when qualifying for and bidding on:
 - 1. All construction projects bid by the City of Grand Rapids Engineering Department, when the engineer's estimate is ten thousand dollars (\$10,000) or more. This includes all construction, alteration or renovation of public works and public buildings/facilities projects financed in whole or in part by the City.
 - 2. All construction projects bid by others when the engineer's estimate is \$10,000 or more and financed in whole or in part by the City. This includes all construction, alteration or renovation of public works and public buildings/facilities projects. If

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

financed in part by the City, these requirements will apply to that dollar amount financed by the City.

E. If federal/state financial assistance is used to support all or part of a construction contract, and if federal/state guidelines apply to the project, the federal/state guidelines shall supersede these Guidelines.

1.2 ADOPTION BY REFERENCE

Unless otherwise indicated, upon adoption of these Administrative Guidelines by the City-County Building Authority, Grand Rapids Downtown Development Authority, Grand Rapids Building Authority, Grand Rapids Tax Increment Finance Authority, Grand Rapids-Kent County Convention/Arena Authority or others, the term "City," as used in these Guidelines shall be interpreted to mean the appropriate Authority which has let the bid for the project at issue.

SECTION 2: DEFINITIONS

2.1 DEFINITIONS

As used in these Guidelines or in the EBO - Construction Policy, the following terms are defined as indicated:

1. Benchmark: A measure that helps an organization understand its strengths and weaknesses by serving as a reference point by which performance is measured against and an indicator of what can and is being achieved.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

2. Bid Discount: A business incentive practice allowing an original bid to be reduced by a certain percentage for having engaged in activities that embrace the City's Mission Statement and City Commission Sustainability Plan with regard to social equity, prosperous economy, enriched lives and clean environment. The discounted bid amount is used in the selection process.
3. Business Incubator: A program that provides small or emerging businesses with affordable office space and shared support and business development services. Shared support and business development services include but are not limited to financial support, business counseling, management advising and professional assistance. Incubators play a nurturing role in helping newer businesses survive and grow during the start-up period when they are most financially vulnerable.
4. Central Contractor Registration (CCR) also known as the System for Award Management (SAM). The primary registrant database for the U.S. Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions.
5. Certification (Certified): The process that the City of Grand Rapids utilizes to determine whether businesses meet eligibility criteria as bona fide Micro Local Business Enterprises (Micro-LBE).
6. City: City of Grand Rapids or the appropriate contracting Authority.
7. Commercially Useful Function: The actual performance, management and supervision of the work on the contract, carried out by a business, including the following responsibilities: providing material and supplies used on the contract, negotiating the price, determining quantity and quality of the material, paying for material and installing the material if applicable.
8. Compliance: The condition existing when a contractor meets the requirements of the

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

EBO - Construction Policy and these Guidelines.

9. Construction Contract: The agreement covering the performance of the Work, Addenda (which pertain to the Contract), Contractors Bid (including documentation accompanying the bid and any post bid documentation) when attached as an exhibit to the Contract, the Bonds, the General Conditions, the Supplementary Conditions, the Standard and Special Specifications, and the Drawings, together with all Change Orders.
10. Contractor: A generic term for a firm (sole proprietorship, partnership or corporation) that does construction work under a contract or subcontract covered by the EBO - Construction Policy and these Guidelines.
11. Diverse Business: Within these guidelines, this term means MBEs, WBEs, Non-MWBEs, Micro-LBEs, VOSBs, and businesses located within designated geographical areas.
12. Exception: A situation in which the EBO Policy shall not apply in whole or in part. Exceptions shall be limited to those situations in which there is an over-riding public policy reason for not applying the EBO Policy. A request for exception to the EBO Policy must be made in accordance with these Guidelines.
13. Joint Venture: A legal business entity comprised of two or more separate businesses established with the intent of undertaking a single joint venture project for profit; and for sharing of profits and losses; and by contribution of skills or property by the parties as described in the joint venture agreement.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

14. Local small and emerging business: For the purpose of these administrative guidelines, local, small and emerging business are:

- Local: Geographical areas of the proximity to the City of Grand Rapids including but not limited to: West Michigan, Kent County, Grand Rapids MSA and/or the City of Grand Rapids. Local is specifically defined in each of the applicable programs.
- Small: A business whose size meets the standards of the North American Industrial Classification Service (NAICS) as established by the Small Business Administration (SBA).
- Emerging: A small business whose size standard is 50% or less of the NAICS standard for a regular small business as established by the SBA.

15. Mentor: A mentor, as used in a mentor-protégé relationship, is an established firm that provides experienced staff and resources to assist a protégé firm (small and emerging business). The mentor helps the protégé firm set and achieve goals within an established timeframe.

16. Micro-Local Business Enterprise: A business designation provided by the City of Grand Rapids to businesses that meet all of the following criteria:

- a. Business Age: Verification that the business has been in operation for a minimum of two full years.
- b. Registration: Verification of registration with the following entities:
 - 1). Federal Government's Central Contractors Registry (CCR) database as a small business,
 - 2). City of Grand Rapids Purchasing Department.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

- c. Location: Verification that the principle place of business has been in operation for at least six (6) months from a fixed office located in Kent County, Michigan. The local office must operate in accordance with the following criteria:
- 1). The local office functions on a daily or regular basis, and provides all services to operate the business for which certification is sought;
 - 2). The local office contains all fixtures, equipment and/or space necessary to operate, including but not limited to, as appropriate, computer(s), software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary to operate the business for which certification is sought;
 - 3). The local office must be the main office for assigned personnel who conduct the business' activities necessary to operate the local business for which certification is sought;
- d. Business Size: Verification that the latest three-year average business revenue or number of permanent employees is 25% (50% , thereafter) or less of the Small Business Administration's (SBA) NAICS industry small business standards.
- e. Personal Net Worth: Verification that the controlling owners' (totaling 51% or more) individual personal net worth, as determined for SBA (8a) status (13CFR124.104), is \$250,000 or less at the time of initial application. For continued Micro-LBE eligibility after admission to the program, net worth shall not exceed \$750,000.
17. Minority: A person who is a citizen or lawful resident of the United States who is:
- a. Black, a person having origin in any of the black racial groups of Africa.
 - b. Hispanic or Latino, a person of Cuban, Mexican, Puerto Rican, South or Central American ancestry. Persons with European Spanish ancestry are not included as Hispanic or Latino for purposes of these administrative guidelines.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

- c. Asian American, a person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands.
- d. American Indian, a person having origins in any of the original peoples of North America.
- 18. Minority Business Enterprise (MBE): A business concern that has obtained certification, by one of the City's designated agencies, in accordance with Section 4.1B of these Guidelines.
- 19. Non-Compliance: The condition existing when a contractor fails to meet the requirements of the EBO – Construction Policy or these Guidelines.
- 20. Non-MWBE: A business concern that is not a MBE or WBE.
- 21. Non-Responsive Bidder: A firm formally submitting a proposal for work contemplated, which proposal in the judgment of the City of Grand Rapids is incomplete and not in compliance with all bid requirements.
- 22. North American Industry Classification Systems (NAICS): The standard for used by Federal agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy.
- 23. Preferred Vendor/Contractor: Any area business that is in good standing with the City and whose principal place of business has been in operation for at least six (6) months from a fixed office located within the legal boundaries of Grand Rapids or Kent County.
- 24. Personal Net Worth: Personal financial condition of the controlling owner(s) of Micro-LBE businesses as determined by SBA (8a) status.
- 25. Pre-qualified: The process by which the Engineering Department determines that a firm is capable of performing a specific category or categories of construction or construction related work and at what maximum dollar limits. This process is set forth to ensure public safety, quality construction and the timely completion of public works

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

and public buildings/facilities projects to the benefit of both the City and the public.

26. Prime Contractor: A firm that submits a bid for a construction project. Prime contractors or general contractors are responsible for an entire construction project, but may subcontract portions of the project to others.
27. Protégé: A protégé, as used in a mentor-protégé relationship, is a small and emerging business that meet all of the following conditions:
- a. its average annual gross receipts do not exceed \$5 million over the previous three fiscal years. (The gross receipt limitations shall be adjusted periodically to offset inflation.);
 - b. has a history of growth in areas such as, gross annual receipts, employees, profits, capital or bonding over the previous three years that are expected to continue except for unforeseen circumstances; and
 - c. has agreed to accept the assistance and resources of a mentor firm by setting and achieving goals within an established time frame.
28. Ready, Willing and Able: A business that exists and actively seeks to do business with the City in order to be included in the pool of businesses available to perform on contracts, as determined by the City. Ready means that a business currently has the capacity and ability to perform work. Willing means that a business understands the requirements of the work requested and intends to perform the work. Able means that a business has demonstrated its capacity to perform the work.
29. Responsive Bidder: A firm formally submitting a proposal for work contemplated, which proposal in the judgment of the City of Grand Rapids is complete and in compliance with the bid requirements.
30. Satisfactory Performance: Contracted work completed by the subcontractor and accepted by the prime contractor.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

31. Subcontractor: A firm (sole proprietorship, partnership or corporation) engaged in a construction trade or specialized construction work which undertakes the execution of and performs part of the construction project by virtue of a subcontract agreement with the prime contractor. A subcontractor submits a quote to a prime contractor for the portion of construction work on a construction project that the subcontractor is willing to perform.
32. Supplier Diversity: In support of the City Commission Sustainability Plan and Equal Business Opportunity – Construction Program, supplier diversity is defined as a proactive practice that seeks to provide all construction contractors and subcontractors equal access to construction bidding opportunities in an effort to promote the City's Mission Statement and City Commission Sustainability Plan.
33. Target Market Business: A Micro-LBE or a "preferred vendor" located within the city limits of Grand Rapids and that meets all of the Engineering Pre-qualification requirements in order to participate in the "Target Market Program".
34. Target Market Program: A program aimed at developing and growing local, small and emerging businesses by targeting specific City construction contracts for these businesses to perform as prime contractors.
35. Target Market Project: A construction project estimated up to \$250,000 and lends itself to participation by local, small and emerging Target Market Businesses as prime contractors.
36. Veteran: As defined at 38 U.S.C. 101(2), means a person who served in the active military, naval or air service, and who was discharged or released under conditions other than dishonorable.
37. Veteran Owned Small Business (VOSB): A small business whose size is no greater

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

than 50% of the numerical size standard applicable to the NAICS and that is at least 51% unconditionally owned by one or more veterans; or in the case of any publicly owned business, at least 51% of the stock of which is unconditionally owned by one or more veterans; and whose management and daily business operations are controlled by one or more veterans.

38. White: (not of Hispanic origin) All individuals with origins in any of the original peoples of Europe, North Africa or the Middle East.

39. Women Business Enterprise (WBE): A business concern that has obtained certification, by one of the City's designated agencies, in accordance with Section 4.1B of these Guidelines.

SECTION 3: DOCUMENTATION OF SUBCONTRACTOR PARTICIPATION

3.1 LIST OF SUBCONTRACTORS

At the time of submission of a proposal or bid, each contractor shall have attached to the proposal or bid the List of Subcontractors form, which identifies the subcontractors, including MBEs, WBEs, Non-MWBEs, Micro-LBEs and VOSBs, to be used on the project. The contractor must also indicate the dollar amounts, and type of work to be performed. Such information shall be subject to review and verification by the Office of Diversity and Inclusion (ODI) of the City of Grand Rapids. Any proposal or bid that is submitted without a completed List of Subcontractor's form, if applicable, may be considered non-responsive.

SECTION 4: DATA MANAGEMENT

4.1 TRACKING, MONITORING AND REPORTING

A. To ensure non-discrimination and equal opportunity to participate in City contracts; and to identify and recommend appropriate changes when warranted, the Office of Diversity and Inclusion, in conjunction with the Engineering Department shall be

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

responsible for tracking, monitoring and reporting utilization for those construction projects covered under these EBO – Construction Guidelines.

1. ODI will provide periodic reports and an annual report to the City Commission, in a public session. Such reports shall include but not be limited to data regarding MBEs, WBEs, Non-MWBEs, Micro-LBEs, and VOSBs.

B. Tracking and Reporting of MBEs and WBEs

To ensure the integrity of the data collected regarding MBE and WBE participation, ODI will track and report the participation of bona fide Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) certified by designated agencies.

ODI will only track bona fide MBEs and WBEs that have submitted relevant business contact information to the Office of Diversity and Inclusion along with a current copy of their certification from one of the following designated agencies:

- a. National Supplier Development Council (NMSDC)
- b. Michigan Minority Business Development Council (MMBDC)
- c. Women Business Enterprise National Council (WBENC)
- d. Michigan Women Business Council (MWBC)
- e. National Women Business Owners Corporation (NWBOC)
- f. Michigan Department of Transportation (MDOT)

Because ODI tracks those MBEs and WBEs with current certification, it is the responsibility of the business to ensure that the City has a current copy of their certification on file with ODI.

C. Tracking and Reporting of Micro-LBEs and VOSBs

1. To monitor the impact and progress of local small businesses, ODI will track and report the utilization of Micro-LBEs certified by the City of Grand Rapids.
2. To ensure the integrity of data collected regarding veteran owned business participation, ODI will track and report the participation of bona fide VOSBs that have

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

submitted relevant business contact information to the

Office of Diversity and Inclusion along with substantiation of CCR registration as a VOSB.

4.2 FORECASTING

During the annual budget preparation process, Top Management shall forecast, to the extent practicable, all anticipated construction projects to be bid during the upcoming fiscal year that meet the requirements of Section 1.1D of these Guidelines.

1. The construction forecasting report shall include projects meeting the requirements of the Target Market Program in Section 6.1. Target Market projects must be identified as such in the forecasting report.
2. The forecasting report for construction must be submitted together with the forecasting reports for goods and professional and non-professional services.
3. All forecasting reports are due and must be provided at the time the department's general operating fund budget is due.
4. Forecasting reports must be submitted as directed by budget instructions.

The Office of Diversity and Inclusion shall be responsible for compiling and disseminating all forecasting reports.

SECTION 5: BID DISCOUNTS

5.1 ELIGIBILITY FOR BID DISCOUNTS

Contractors are encouraged to engage in practices that further the City Commission Sustainability Plan with regard to social equity, prosperous economy, enriched lives and clean environment. The discounts outlined in Section 5.1 A-D below, may be used in any combination not to exceed 5% or up to \$100,000 per bid, whichever is lower. Construction bids may be discounted where contractors can demonstrate and substantiate their involvement in these practices as follows:

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

A. Social Equity

1. Local Workforce: The City will give up to 2% bid discounts to contractors showing that they currently employ City of Grand Rapids residents (lives within the City limits) as part of their permanent workforce. Such commitment must be evidenced in the contractor's permanent labor force as follows:
 - a. Grand Rapids Resident: A contractor whose labor force is comprised of 24% or higher Grand Rapids residents shall be eligible to receive a 1% bid discount.
 - b. General Target Area (GTA) Resident: A contractor whose labor force is comprised of 24% or higher Grand Rapids residents and at least 50% of those Grand Rapids residents reside in the City's General Target Area (GTA) shall be eligible to receive an additional 1% bid discount.

B. Prosperous Economy

The City will give bid discounts to contractors who participate in activities that improve the business environment and encourage business development as follows:

1. Subcontractor Participation: Construction bids may be discounted when Micro-LBE subcontractor participation is voluntarily obtained by a contractor on a City construction project. Prime contractors must submit affidavit(s) verifying Micro-LBE subcontractor participation pursuant to Section 5.2.A of these Guidelines.
 - a. The following is a schedule of discounted percentages based upon Micro-LBE subcontractor participation achieved by the contractor:

<u>Micro-LBE Subcontractor Participation</u>	<u>Discount Percentage</u>
1.0 – 2.5%	1.0%
2.51 – 5.0%	1.5%
5.01 – 7.5%	2.0%
7.51 – 10.0%	2.5%
10.01 – 15.0%	3.0%
15.01 – 18.0%	4.0%

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

18.01%+

5.0%

- b. Micro-LBEs acting as subcontractors shall provide a written quote that includes all pertinent information for that portion of the project that the subcontractor seeks to perform. With the exception of Trucking and Hauling, a prime contractor shall not submit a bid containing a quote from a subcontractor, unless the prime contractor has received such quote in writing from the subcontractor. In regard to Trucking and Hauling, a prime contractor must be able to show evidence of established seasonal rates for such work if the subcontractor did not provide a written quote for the specific project under consideration. A subcontractor shall not be permitted to sub-contract or assign any of such work upon which it submits a quote without the prior express written permission of the City of Grand Rapids.
- c. Prime contractors may not terminate an approved Micro-LBE subcontractor working on a City of Grand Rapids construction project, and then perform the work on the terminated subcontract with its own forces or those of another subcontractor, without prior written consent by ODI and Engineering. If a Micro-LBE subcontractor fails to complete its work on the contract for any reason, a prime contractor must notify ODI and Engineering and make good faith efforts to find another approved Micro-LBE subcontractor to substitute for the original Micro-LBE subcontractor. Utilizing good faith efforts, and to the extent reasonable, the prime contractor shall substitute an approved Micro-LBE subcontractor to perform the same amount of work under the contract as the Micro-LBE subcontractor that was terminated.
2. Joint Venture Bidding: As an incentive to contractors engaging in activities that stimulate the growth and development of local, small emerging businesses as

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

partners bidding as a joint venture, the City will apply a 5% bid discount for partnering with an approved Micro-LBE (as defined in Section 2.1). A Joint Venture (as defined in Section 2.1) must meet the requirements of paragraph six (6) of City Commission Policy 1000-17, Prequalification of Bidders and Subcontractors.

3. Mentor Protégé Programs: The City will apply a bid discount of 2% to approved mentor protégé programs that facilitate the business development of small and emerging firms. Participating mentor protégé programs must be approved as meeting the requirements of Section 7.
4. Private Sector/Non-City of Grand Rapids Utilization: Prime contractors that show evidence of equal opportunity in subcontracting on private sector projects and utilize Micro-LBE subcontractors, pursuant to the City's Micro-LBE Certification Policy, on non-City of Grand Rapids projects for work completed during the previous twelve (12) month period ending December 31st may be eligible for a bid discount based on the following schedule.

<u>Private Sector/ Non-City Micro-LBE Participation</u>	<u>Discount Percentage</u>
5.0 – 10.0%	1.0%
10.01%+	2.0%

5. Veteran Owned Small Business (VOSB): The City will give a 1% bid discount to veteran owned small businesses, as evidenced in the Federal Government's System for Award Management (SAM), (formerly, the Central Contractors Registry or CCR) and meeting the requirement of being no greater than 50% of the numerical size standard applicable to the NAICS (i.e. *emerging small*).

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

6. Construction Workforce: Construction businesses may be eligible from one (1) to three (3) bid discount points if they provide employment opportunities for entry level positions or higher for graduates of any one of the following construction entry programs:

1. The Jump Start Program (ABC-WMC), or
2. The Gerald R. Ford Job Corps – Carpentry Program, or
3. The Youth Build program (Bethany Christian Services), or
4. The Chris Wagner (EZ Construction) trades program, or
5. Grand Rapids Academy for Design & Construction, or
6. Kent Transition Center - Facilities Maintenance & Construction Program, or
7. Others, as determined by the City, who train new construction workers.

They must meet the following criteria to obtain bid discounts:

1. Have hired a graduate of the listed trade training programs, and
2. Employed that graduate full-time for three (3) months or more (overall), one (1) bid discount.
3. Employed that graduate full-time for six (6) months or more (overall), two (2) bid discount points.
4. Employment of two (2) or more graduate workers meeting requirements in item (a) and (b), up to three (3) bid discounts.
5. Additionally, if a graduate is or becomes a Grand Rapids resident and item (a) and (b) requirements are met, then the business can obtain another bid discount point, for a maximum 3 bid discount points.

To obtain each of the construction workforce bid discounts, the bid discount application will require supporting documentation (program graduate verification, payroll, etc.) as determined by the Diversity and Inclusion office.

General Contractors that use subcontractors who have obtained this discount can use (roll-up) 50% of that subcontractor's discount when they bid to the City of Grand Rapids.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

C. Enriched Lives

Businesses that can demonstrate evidence of involvement in established partnerships that enrich the lives of the citizens of Grand Rapids through any of the activities listed below during the previous twelve (12) month period ending December 31st shall be eligible to receive a 1% bid discount for each activity, unless otherwise noted, up to 2% total.

1. Grand Rapids Public Schools FACTS Programs – Evidence of participation by at least 10% of a firm’s permanent workforce.
2. Institutes for the Healing of Racism - Evidence of completion of an institute by at least 10% of a firm’s permanent workforce.
3. Family Friendly Policies – Evidence of official recognition of a practice or policy by a federal, state or local organization as being family friendly.
4. School-To-Registered Apprenticeship (STRA) Program with Kent Intermediate School District (KISD) – Evidence of participation with a student who:
 - a. lives in the City of Grand Rapids;
 - b. attends a Grand Rapids high school or Grand Rapids Public School’s GED Testing program for the entire period of training; and
 - c. earns a Certificate of Completion from KISD.

Business may be eligible for a bid discount based on the following schedule:

<u>Participation with eligible students</u>	<u>Discount Percentage</u>
1-2 students	1%
3 or more students	2%

5. Other innovative programs and practices of the business that further the City Commission Sustainability Plan. Evidence of activities done in partnership with Grand Rapids public schools, Grand Rapids non-public schools or with area

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

colleges and universities such as job training programs, job re-entry programs, apprenticeship programs, mentorship and internship programs that provide evidence of positive impact on the objectives of the City's Sustainability Plan may be considered for bid discounts. Notwithstanding the above-mentioned examples, other innovative programs and practices may be considered.

The Community Relations Commission will review, approve or deny programs under this section.

D. Clean Environment

Businesses that can demonstrate acceptable evidence of protecting the environment through one of the following activities during the previous twelve (12) month period ending December 31st shall be eligible to receive a 1% bid discount:

1. Adopt-A-Stream program – Proof of active annual participation with the West Michigan Environmental Action Council in a full season of cleaning, monitoring and restoring streams within the City of Grand Rapids must be submitted to the Office of Diversity and Inclusion prior to approval of a bid discount.
2. Other innovative programs and practices - Programs that further the environmental goals of the City Commission Sustainability Plan must be submitted for review and approval by the Community Relations Commission.

5.2 VALIDATION

Once a bid has been received and opened, the City Engineering Department shall apply discount(s) to bids based on the original bid amount. Contractors desiring credit for bid discounts must follow the validation guidelines below.

A. Firms requesting bid discounts under Section 5.1B-1 (Subcontractor Participation) must submit at the time of bid opening a completed List of Subcontractors form.

1. The prime contractor shall submit a sworn affidavit from each Micro-LBE

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

subcontractor to be used in the performance of the contract. The affidavits must be provided within one (1) business day of the bid opening to the Engineering Department. A prime contractor shall not submit an affidavit that has not been signed by a Micro-LBE.

2. The City Engineering Department shall record the percent of certified Micro-LBE subcontractor participation reported in the bid documents.

B. Contractors participating in programs or activities detailed in Section 5.1 A1 through 5.1 D, must submit substantiation of their involvement to the Office of Diversity and Inclusion for approval as follows:

1. Applications for bid discounts shall be made annually based on documentation substantiating involvement for the previous twelve (12) months (January 1 – December 31). Annual bid discount applications shall be submitted for review by December 1st. Approved activities will be effective January 1st through December 31st following the effective date.
2. Firms requesting a bid discount under Section 5.1 A1 (Local Workforce) must submit an Annual Bid Discount Request Form to the Office of Diversity and Inclusion, together with one of the following types of workforce documentation for review and a determination of eligibility.
3. The most recently approved contract compliance workforce data (EEO form 201) and required substantiation.
4. Local Workforce Form-4a.
5. Other workforce data meeting the requirements of Section 5.1 A1.

ODI will accept documentation of additional activities for bid discount purposes throughout the year. Documentation for such discounts shall be submitted at least fifteen (15) working days prior to the bid opening date. Notification of the acceptance or rejection

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

of the activity for purposes of discounting bids will be provided to the contractor and the Engineering Department. Approved activities will remain in effect until December 31st following the effective date.

The discounted bid will be used in the selection process for the project and the recommendation for award. However, the original bid amount will be the basis for contract award.

In those instances where an analysis of bids, including such bids that are discounted, results in two or more contractors having the same bid amount, the recommended award shall be the bid with the lowest original bid amount; however, the City reserves the right to award a contract in the City's best interest, and therefore, may select a bidder other than the lowest.

5.3 USE OF SUBCONTRACTORS' ANNUAL BID DISCOUNTS

A prime contractor may use 25% of the total value of fixed, annually calculated bid discounts earned by a subcontractor under Section 5.1 A through 5.1 D (See difference percent for bid discount item 5.1 D.6) and validated under Section 5.2 B. This adjusted bid discount may be added to the value of the total bid discounts available to the prime contractor. The value of the subcontract must be \$25,000, or greater, at any tier. The bid discount limitations referenced in Section 5.1 remain in force and effect.

SECTION 6: TARGET MARKET PROGRAM

The Target Market Program is aimed at developing and growing Grand Rapids-based Micro-Local Business Enterprises by targeting specific City construction contracts for these businesses to perform as prime contractors. Eligible businesses meeting the requirements of a Micro-Local Business Enterprise as defined in Section 2.1 and located within the Grand Rapids city limits may participate. The ultimate purpose of this program is to facilitate the growth and

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

development of local, small and emerging businesses to prime contractor status. *(Note: Bid Discounts are not available for the Target Market Program.)*

6.1 TARGET MARKET PROJECTS

Target Market projects are construction projects estimated up to \$250,000 and lend themselves to participation by Grand Rapids Micro-Local Business Enterprises as prime contractors. All departments with construction projects that fall within the Target Market Program (projects up to \$250,000) shall identify and forecast specific construction projects for the upcoming fiscal year. Additional construction projects may be added throughout the fiscal year. ODI shall work with the Engineering Department to determine the appropriate designation of projects for the Target Market Program. Only Grand Rapids businesses that have been pre-qualified by the Engineering Department and designated as a Micro-Local Business Enterprises by the Office of Diversity and Inclusion are eligible to bid projects under the Target Market Program. The prime contractor on a Target Market Program contract may subcontract up to 40% of the dollar value of the Target Market Program contract, or a percent agreed to by both the ODI and Engineering Departments prior to advertising the bid.

6.2 CRITERIA FOR DETERMINING ELIGIBLE TARGET MARKET BUSINESSES

An eligible business for the Target Market Program shall be an independent and continuing business for profit that performs a commercially useful function and is designated a Micro-Local Business Enterprise. No contract shall be issued for the Target Market Program unless and until all other debts due and owing to the City, and all personal property taxes assessed against said eligible business have been paid.

**6.3 IDENTIFICATION AND LISTING OF ELIGIBLE TARGET MARKET
BUSINESSES**

The Office of Diversity and Inclusion shall identify, compile and maintain a list of

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

designated Micro-Local Business Enterprises that are ready, willing and able (RWA) to bid on Target Market Program construction projects with the City. This list shall include the construction category in which the contractor is pre-qualified to perform work, as determined by the Engineering Department. ODI shall monitor eligible Target Market Program businesses to ensure compliance with these Guidelines. A current list of eligible Target Market Program businesses shall be maintained by ODI.

SECTION 7: MENTOR PROTÉGÉ PROGRAM

The City of Grand Rapids encourages the establishment of mentor protégé programs. The purpose of such programs is to establish a beneficial relationship between a small and emerging firm and an established firm with the capacity to support the business development and financial growth of the small and emerging firm, thereby increasing the number of competitive and financially capable firms available to contract with the City. ODI will be responsible for approving existing mentor protégé programs. The City may facilitate the creation of new mentor protégé programs.

7.1 ELIGIBILITY REQUIREMENTS

- A. Mentor Firms: Mentor firms shall be established and experienced enough to provide developmental assistance as outlined in paragraph C below. A mentor firm must have construction persons with sufficient knowledge and experience to help the protégé firm set improvement goals and set and meet deadlines. Mentor firms must be pre-qualified with the Engineering Department. A mentor firm may have multiple protégé firms provided the mentor firm has the capacity to maintain the scope of activities agreed upon in the signed mentor protégé agreement.
- B. Protégé Firms: Firms eligible to participate as a protégé must be pre-qualified by the Engineering Department and approved by the Office of Diversity and Inclusion as a small and emerging business. Protégé firms can have multiple mentors so long as a

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

Mentor-Protégé agreement is not a duplication of the assistance provided by another Mentor-Protégé agreement.

C. Scope: The City of Grand Rapids encourages and supports mentor protégé programs that provide a broad array of services and resources to facilitate the growth and development of small and emerging firms. The scope of services that can be provided by a mentor firm should include but not be limited to:

1. Management guidance in finance, organization and workforce development;
2. Technical or engineering assistance;
3. Marketing, networking and public relations assistance; and
4. Free or reduced cost for use of facilities and/or equipment.

Mentor personnel may be temporarily assigned to the protégé firm for training purposes only.

7.2 MENTOR PROTÉGÉ AGREEMENT

Mentor protégé relationships accepted or approved by the City shall be evidenced by a written, signed agreement that outlines the scope of the relationship. At a minimum, a mentor protégé agreement should contain the following provisions:

1. Name and address of mentor and protégé firm and contact persons in each.
2. A description of the types of assistance programs that will be provided by the mentor firm to the protégé firm, including a schedule for providing assistance and criteria for evaluation of the protégé's developmental success;
3. The duration of the agreement, with a minimum of a twelve (12) month term;
4. Rights and responsibilities of both mentor and protégé, including termination procedures and procedures for voluntary withdrawal from the program;
5. A listing of the number and types of subcontracts to be awarded to the protégé

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

firm, if applicable;

6. Measurable goals or benchmarking milestones to be achieved during the pendency of the mentor protégé relationship; and
7. Other terms and conditions, as appropriate.

7.3 PROTÉGÉ AS A SUBCONTRACTOR

- A. Mentor firms may use their protégé as a subcontractor on City construction projects only if the program agreement clearly defines the development goals that the protégé will achieve.
- B. In those circumstances where the mentor-protégé relationship involves a Micro-LBE protégé, either party may enter into a contractual relationship with another party outside of the mentor-protégé relationship in order to qualify for additional bid discount incentives.

Mentors may receive incentives for participating in an approved mentor protégé program pursuant to Section 5.1 B-3 of these Guidelines. The mentor protégé agreement must be in place and functioning for at least six (6) months prior to submission of bid discount application.

SECTION 8: OTHER STRATEGIES

The City of Grand Rapids continues to recognize that practices such as bonding, financing, insurance assistance, training, business development, communication, outreach and matchmaking are essential in helping all small businesses, including but not limited to MBEs, WBEs, Non-MWBEs, Micro-LBEs, and VOSBs overcome obstacles to successfully compete for contracts in the local construction market. Through its EBO-Construction Policy and Guidelines, the City will facilitate strategies that amplify opportunities. The Office of Diversity and Inclusion will work collaboratively with other entities in West Michigan to develop programs, services, training opportunities and other resources to facilitate the growth and success of these

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

businesses.

8.1 BUSINESS DEVELOPMENT ASSISTANCE

The Office of Diversity and Inclusion will provide business development assistance in planning, marketing, insurance, workforce training and other areas as needed. ODI will provide this assistance by assessing the needs of firms, identifying the resources, and matching the assessed needs with the resources available. ODI will then refer firms to business development organizations and business assistance centers that provide individualized assistance.

8.2 BUSINESS INCUBATORS

The City encourages joint efforts between government or other non-profit agencies and private developers to develop business incubators. Business incubators are facilities that provide small and emerging businesses with affordable space and shared support and business development services, such as financing, marketing, and management. The business incubator is a physical facility, which provides offices, warehousing and manufacturing space, common loading docks, shared meeting space and a common reception area. The incubator provides a reception and incubator manager to assist participants in preparing business plans, securing financing, business counseling and management advising. Incubators play a nurturing role in helping newer businesses survive and grow during the start-up period when they are most financially vulnerable.

8.3 BONDING ASSISTANCE

Bonding is critical to continued success of any business. Without bonding, small and emerging businesses cannot compete for jobs. Successful job performance enables firms to secure bonds for larger jobs and allows them to establish their reputation and financial ability. The City will encourage bonding providers to engage in strategies designed to assist small and emerging businesses to obtain bonding. The City will not

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

provide bonding guarantees. The City will provide assistance in training on the elements and concepts of bonding. This program will assist businesses that lack the capital or capacity necessary to meet bonding requirement for bids so that they can compete for projects.

8.4 FINANCIAL ASSISTANCE

Small and emerging businesses often lack sufficient funds to undertake medium-to-large scale projects. ODI will work closely with local banks to develop better access to financial support for such businesses. Some of the financing instruments to be considered include micro loans, investment funds, and loan guarantees.

8.5 COMMUNICATION AND OUTREACH

A. Communication

1. The City will advertise and post bid opportunities for construction projects.
2. The City will publicize the EBO – Construction Policy by advertising in the news media and by notifying and discussing this policy with all entities seeking to be more inclusive in their procurement practices and/or seeking to do business with the City.
3. The City will develop and maintain a web site containing pertinent information regarding doing business with the City.

B. Outreach

The City will take affirmative steps to ensure that all business including but not limited to MBEs, WBEs Non-MWBEs, Micro-LBEs and VOSBs have an equitable opportunity to compete for City contracts and subcontracts by engaging in the following activities:

1. Notification of City contracting and subcontracting opportunities.
2. Conducting pre-bid/pre-proposal conferences to provide contractors with an

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

- opportunity to ask questions about the EBO – Construction Policy.
- 3. Making available lists of firms bidding as prime contractors.
- 4. Engaging in general recruitment and outreach efforts directed at business assistance organizations to assure diversity and non-discrimination in the pool of contractors available to do business with the City of Grand Rapids.

8.6 TRAINING

The Office of Diversity and Inclusion shall independently or in collaboration with other public or private entities develop and/or sponsor workshops, classes and networking opportunities to assist small businesses in gaining expertise, information and resources on relevant business development practices. ODI will provide technical assistance and facilitate other opportunities for growth.

SECTION 9: SUBCONTRACTOR PAYMENT

9.1 PROMPT PAYMENT CLAUSE

The City will include a prompt payment clause in construction contracts that specifies time limits for payment to subcontractors for both progress payments and final payments.

This prompt payment provision does not confer third-party beneficiary rights or other direct rights to a subcontractor against the City.

9.2 PAYMENT CERTIFICATION

The prime contractor must provide to the City closeout documentation certifying total dollars paid to subcontractors on the project pursuant to the bid and contract documents. The City reserves the right to withhold final payment to a prime contractor until the requirements of this provision have been satisfied.

SECTION 10: CHANGE ORDERS AND EMERGENCY BIDS

In those situations where construction contracts are modified subsequent to City Commission approval or emergency conditions occur necessitating immediate action, the City will, to the

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

extent practicable under the circumstances, make efforts to utilize diverse businesses as prime contractors or subcontractors to perform some of this work.

SECTION 11: DIRECTORIES AND LISTS

The City shall maintain the following sources of listings:

1. A directory of Micro-Local Business Enterprises and Veteran Own Small Businesses by construction category, and prequalification status together with other pertinent information such as address, email, telephone and/or fax numbers.
2. A list of eligible Target Market Businesses by construction category and prequalification status together with other pertinent information such as address, email, telephone and/or fax numbers.

SECTION 12: CONTRACT SANCTIONS

The City, or designee of the appropriate Authority, may impose sanctions against any contractor or subcontractor who violates these Guidelines or provides information that is materially false or misleading. The severity of sanctions will depend on the degree of culpability and the extent to which the City or appropriate Authority relied on the false or misleading information.

In any event, if the City or appropriate Authority relies on the false or misleading information to award a contract, the City or appropriate Authority may impose monetary sanctions, in addition to other possible sanctions.

Furthermore, any contractor or subcontractor under City or appropriate Authority contract who violates these Guidelines, fails to perform or is determined to be inadequate in performance shall also be subject to contract sanctions.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

SECTION 13: APPEALS AND EXCEPTIONS

13.1 APPEAL OF ADMINISTRATIVE DECISIONS

Administrative decisions relating to certification may be appealed to the Community Relations Commission. Any person wishing to file such an appeal must do so within five (5) working days of the notice of the administrative decision from which an appeal is taken.

The request for an appeal must be in writing and addressed to the City of Grand Rapids Office of Diversity and Inclusion Director and must make reference to the specific action or actions at which the appeal is directed. Within ten (10) calendar days of the request for appeal, the Community Relations Commission shall hold a hearing at which interested parties may present evidence and arguments in support of their respective positions. Failure of a party to appear at the hearing shall be deemed to be final acceptance of the administrative decision. Within five (5) working days of the hearing, the Community Relations Commission shall issue its written decision. The Community Relations Commission may affirm, modify or reverse all or any part of the administrative decision.

13.2 APPEAL OF COMMUNITY RELATIONS COMMISSION DECISIONS

The decision of the Community Relations Commission which denies a contractor's appeal may be appealed to the City Commission or Authority which let the bid for the project at issue (i.e., City-County Building Authority, Grand Rapids Downtown Development Authority, Grand Rapids Building Authority, Grand Rapids Tax Increment Finance Authority, Grand Rapids-Kent County Convention/Arena Authority or others). Request for such appeals shall be filed with the Office of Diversity and Inclusion Director within five (5) calendar days of the notice of the decision in question. The request for appeal must make specific reference to the decision of the Community Relations Commission being appealed. Following receipt of the request for an appeal, the City's Office of Diversity and Inclusion Director shall schedule the matter for hearing by the City Commission, or the appropriate Authority. The party requesting the appeal shall be

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

notified in writing of the time, date and place when the appeal will be heard. Failure on the part of a party to appear at the hearing shall be deemed by the City as final acceptance of the Community Relations Commission's decision.

All appeals from the Community Relations Commission's decisions which deny either a contractor's appeal or request for an exception by the City Manager (or designee) or the appropriate Authority's designee shall be heard under a procedure established by the City Commission or appropriate Authority. The appealing party shall be notified of the procedure to be followed. The procedure shall comport with basic due process. The City Commission or appropriate Authority shall, within ten (10) calendar days of the hearing, render a decision by a majority vote of those hearing the appeal and also present at the regular public meeting at which the vote is taken. The City Commission or appropriate Authority may affirm, modify or reverse, in whole or in part, the decision of the Community Relations Commission. The decision of the City Commission or appropriate Authority shall be final.

13.3 EXCEPTION TO THE EBO - CONSTRUCTION POLICY REQUIREMENTS

Whenever the City Manager (or designee), based on various circumstances related to the award of any City construction contract, or a designee of the appropriate Authority in regards to the award of any Authority construction contract, determines that there is a need to request an exception to the EBO – Construction Policy, the City Manager (or designee) or the Authority's designee shall make such request for an exception to the Community Relations Commission.

The Community Relations Commission shall have the authority to grant or deny a request for an exception to the EBO – Construction Policy, and its decision shall be based upon relevant factors as presented by the City Manager (or designee) or the Authority's designee, and a determination of what result would best serve the public interest.

The request for an exception to the policy must be addressed to the Equal Opportunity

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

Director, and must include all relevant information which serves as the basis for the request for an exception to the policy. Within ten (10) days of the request for exception, the Community Relations Commission shall hold a hearing at which the City Manager (or designee) or the Authority's designee may present oral and written evidence or arguments in support of the request. Within five (5) working days of the hearing, the Community Relations Commission shall render its written decision to the City Manager (or designee) or the Authority's designee. Any decision by the Community Relations Commission which denies a request for exception may be appealed to the City Commission or appropriate Authority pursuant to Section 13.2, paragraph two.

SECTION 14: FIELD EXAMINATIONS

The City reserves the right to conduct periodic on-site examinations of project sites, offices and records of any contractors subject to the EBO – Construction Policy and these Guidelines. Records relating to the business may be examined at the discretion of the City Manager (or designee) or the designee of the appropriate Authority. Failure to provide access to any worksite, office, records or other items reasonably related to the administration of the EBO – Construction Policy or these Guidelines shall subject the contractor denying access to appropriate sanctions to be determined by the City.

SECTION 15: SEVERABILITY

If any provisions of these Administrative Guidelines or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or applications, and are to this end declared to be severable.

All questions regarding these Administrative Guidelines should be referred to the Office of Diversity and Inclusion, City of Grand Rapids, 300 Monroe N.W., Grand Rapids, MI 49503, (616) 456-3027.

**ADMINISTRATIVE GUIDELINES
EQUAL BUSINESS OPPORTUNITY – CONSTRUCTION POLICY**

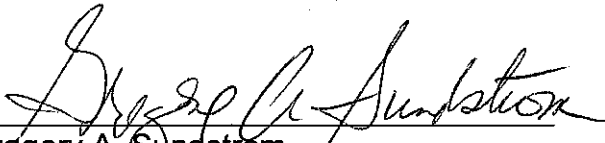
Promulgated this 23rd day of December 2003, by the City Manager under the authority of City Commission Policy 600-12.

As amended on the 11th day of August 2005, by the City Manager under the authority of the City Commission Policy 600-12.

As amended on the 23rd day of January 2007, by the City Manager under the authority of the City Commission Policy 600-12.

As amended on the 16th day of September 2008, by the City Manager under the authority of the City Commission Policy 600-12.

As amended on the 3rd day of February, 2016, by the City Manager under the authority of the City Commission Policy 600-12.



Gregory A. Sundstrom
City Manager