

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF MIRAMAR**  
**AND**  
**MGT of AMERICA, INC.**  
**FOR DISPARITY STUDY CONSULTING SERVICES**

This Agreement is entered into this 17 day of August, 2016, by and between the City of Miramar, Florida, a Florida municipal corporation (hereinafter referred to as the "City"), and MGT of America, Inc, a Florida corporation or individual with principal business address located at 3800 Esplande Way, Suite 210, Tallahassee, FL 32311 (hereinafter referred to as "Contractor").

**WHEREAS**, on December 3,, 2015, the City issued Request for Proposals No. 16-11-07 ("RFP") for "Pre-Disparity and Disparity Study Consulting Services" (the "Services"); and

**WHEREAS**, the Contractor was determined by an Evaluation Committee to be the highest evaluation scoring, responsive and responsible Proposer, and whose Proposal was most advantageous to the City; and

**WHEREAS**, on August 17, 2016, the City Commission approved the award of the RFP to Contractor and authorized negotiation and execution of an appropriate Agreement between Contractor and the City for the provision of the Services.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, and covenants hereinafter set forth, the City and Contractor agree as follows:

**SECTION 1**  
**RECITALS**

The above recitals are true and correct, and are incorporated and made a part of this Agreement.

## **SECTION 2**

### **SCOPE OF SERVICES**

2.1 This Agreement is subject to and Contractor shall provide Services in accordance with the Scope of Services, terms, conditions and requirements set forth and described in the RFP, the Contractor's Proposal submitted in response thereto as accepted by the City, and any subsequently negotiated changes to same, which documents or agreements are incorporated by reference herein. In the case of any conflict between the General Terms and Conditions, the Special Conditions, the Specifications or Scope of Services, the Contract or any amendment/addendum issued, the order of precedence shall be: the last addendum issued; the Specifications or Scope of Services; the Special Conditions; the General Terms and Conditions, and then the Contract.

2.2 Contractor represents and warrants to the City that: (i) it possesses all qualifications, licenses and expertise required for the performance of the Services; (ii) it is not delinquent in the payment of any sums due the City; (iii) all personnel assigned to perform the Services are and shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each.

## **SECTION 3**

### **COMPENSATION**

3.1 The City shall pay contractor \$190,000, for the Services provided as outlined in Section 3 of the RFP and attached hereto as Exhibit "A". The City reserves the right to compensate for the Pre-Disparity Study Analysis and if deemed necessary the Comprehensive Disparity Study Analysis.

3.2 Contractor shall submit periodic invoices for the Services provided to:

The City of Miramar  
ATTN: Accounts Payable  
2300 Civic Center Place  
Miramar, FL 33025

The date of the invoice shall not exceed 30 calendar days from the date of acceptance of the Goods and Services by the City. Under no circumstance shall an invoice be submitted to the City in advance of the delivery and acceptance of the commodities and/or Services, unless otherwise agreed to. All invoices shall reference the appropriate Contract number, the address where the commodities were delivered or the Services performed, and the corresponding acceptance slip that was signed by an authorized representative of the City when the Goods and/or Services were delivered and accepted. Payment by the City shall be made within 30 days after receipt of Contractor's invoice, which shall be accompanied by sufficient supporting documentation and contain sufficient detail to allow a proper audit of expenditures should the City require one to be performed.

3.3 Contractor shall not perform or begin any Work under this Agreement without prior written authorization from the City, as well as an approved purchase order authorizing Services. The failure of Contractor to obtain a purchase order for Work required under this Agreement constitutes a failure to adhere to the terms of this Agreement, and authorization for payment for such unauthorized Work shall be denied.

3.4 Services shall be provided to the City in strict accordance with the Specifications and Scope of Services set forth and described in the RFP. If the Services provided by Contractor do not meet the applicable Scope of Services, Contractor will not receive payment for such nonconforming Services and shall pay the City all fees and/or costs associated with obtaining satisfactory Services.

3.5 All requests/estimates/quotations for services not covered under this Agreement shall be submitted in writing prior to any additional service being provided or approved. The estimate must include a detailed list of the additional services to be completed, listed item by item, and location where Services is to be performed.

#### **SECTION 4** **TERM OF AGREEMENT**

4.1 The Contract resulting from this Solicitation shall commence upon execution by both parties, and shall terminate upon acceptance of all deliverables due under this agreement by the City , unless otherwise terminated by the City as provided herein.

4.2 The City's Chief Procurement Officer may authorize up to a 90-day extension of this Agreement in accordance with its terms and conditions, and the City Manager or her designee is authorized to extend this Agreement, for operational purposes only, for a maximum of 180 days.

4.3 This Agreement shall be subject to the annual appropriation of funding by the City during its budget process, the failure of which, in the City's sole discretion, may serve as a basis for termination of this Agreement pursuant to Section 8 below, or nonrenewal of this Agreement.

#### **SECTION 5** **TERMINATION OF AGREEMENT**

5.1 **Termination for convenience.** The City may terminate this Agreement for convenience by giving Contractor 30 calendar day's written notice. In the event of such termination, Contractor shall be entitled to receive compensation for any Services provided pursuant to this Agreement and to the satisfaction of the City, up through the date of termination. Under no circumstances shall the City make payment for Services nor shall Contractor invoice the City for Services not yet provided.

5.2 **Termination for cause.** This Agreement may be terminated by either party upon five calendar day's written notice to the other should such other party fail substantially to perform in accordance with this Agreement's material terms through no

fault of the party initiating the termination. In the event that Contractor abandons this Agreement or causes it to be terminated by the City, Contractor shall indemnify the City against losses pertaining to this termination. In the event that Contract is terminated by the City for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 5.1 of this Agreement, and the provisions of Section 5.1 shall apply.

**5.3 Return of City equipment.** Upon termination of this Agreement, Contractor shall return all City equipment to the City.

**5.4 Survival.** The termination of this Agreement under Section 5.1 or 5.2 shall not relieve either party of any liability that accrued prior to such termination and any such accrued liability shall survive the termination of this Agreement.

## **SECTION 6** **INDEPENDENT CONTRACTOR**

Contractor is an independent contractor under this Agreement. Services provided by Contractor shall be provided by employees of Contractor subject to supervision by Contractor, and not as officers, employees or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, travel, per diem policy, and purchasing policies under the Agreement shall be the sole responsibility of Contractor. Contractor shall have no rights under the City's worker's compensation, employment, insurance benefits or similar laws or benefits.

## **SECTION 7** **INDEMNIFICATION**

**7.1** Contractor shall indemnify, defend and hold harmless the City, its officers, officials, agents, employees, and volunteers from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property or loss of use resulting therefrom arising out of any errors, omissions, misconduct or negligent acts of Contractor, its respective officials, agents, employees or Subcontractors in the Contractor's performance of Services pursuant to this Agreement.

**7.2** Nothing in this Agreement shall be deemed or treated as a waiver by the City of any immunity to which it is entitled by law, including but not limited to the City's sovereign immunity as set forth in Section 768.28, Florida Statutes.

## **SECTION 8** **NON-APPROPRIATION OF FUNDS**

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then

the City, upon written notice to Contractor of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to the City.

## **SECTION 9** **INSURANCE**

9.1 **INSURANCE** - For programs that are active in nature, which shall be determined in the sole and exclusive discretion of the City, Contractor shall maintain commercial general, automobile (where applicable), workers compensation and professional liability insurance in an amount acceptable to the City's Risk Manager.

### **9.1.1 Minimum Limits of Insurance**

Proposers shall maintain the following minimum limits of insurance (unless higher limits are required by law or statute):

1. Commercial General Liability: \$1,000,000 Combined Single Limit per occurrence, property damage and medical expense \$10,000, personal injury and advertising injury liability \$1,000,000; products and completed operations policy aggregate \$2,000,000 and general aggregate \$2,000,000.
2. Employer's Liability: \$1,000,000 per accident for bodily injury by accident or disease.
3. Workers' Compensation: Statutory.

### **9.1.2 Required Insurance Endorsements**

The City requires the following insurance endorsements:

1. **ADDITIONAL INSURED** - The City must be included as an additional insured by policy endorsement under Commercial General Liability policy for liability arising from Work or operations performed by or on behalf of the Contractor.
2. **WAIVERS OF SUBROGATION** - Proposer agrees to waive all rights of subrogation by policy endorsement against the City for loss, damage, claims, suits or demands, regardless of how caused:
  - a. To property, equipment, vehicles, laptops, cell phones, etc. owned, leased or used by the Contractor or the Contractor's employees, agents or Subcontractors; and
  - b. To the extent such loss, damage, claims, suits or demands are covered, or should be covered, by the required or any other insurance (except professional liability to which this requirement does not apply) maintained by the Contractor.

This waiver shall apply to all first party property, equipment, vehicle and workers compensation claims, and all third party liability claims, including

deductibles or retentions which may be applicable thereto. If necessary, the Contractor agrees to endorse the required insurance policies to acknowledge the required waivers of subrogation in favor of the City. Contractor further agrees to hold harmless and indemnify the City for any loss or expense incurred as a result of Contractor's failure to obtain such waivers of subrogation from Contractor's insurers.

### **9.1.3 Approval of Insurance Documentation**

This Agreement shall not be deemed approved until the Contractor has obtained all insurance required under this section and has supplied the City with evidence of such coverage in the form of a Certificate of Insurance with additional insured and waiver of subrogation endorsements for policies as stated in the required insurance endorsement section above. The City shall be named as certificate holder in all of Proposer's liability insurance policies. The City shall approve such Certificates prior to the performance of any Services pursuant to this Agreement.

9.2 ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A VII per Best's Key Rating Guide and be licensed to do business in Florida. The Contractor's liability insurance shall be primary to any liability insurance policies that may be carried by the City. The Contractor shall be responsible for all deductibles and self-insured retentions on their liability insurance policies.

9.3 All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least 30 calendar days written notice has been given to the City by certified mail.

## **SECTION 10** **MISCELLANEOUS**

10.1 Contractor shall, without additional expense to the City, be responsible for paying any taxes, obtaining any necessary licenses and for complying with all applicable federal, state, county, and municipal laws, ordinances and regulations in connection with the performance of the Services specified herein.

10.2 Precautions shall be exercised at all times for the protection of persons and property. Contractor and all Subcontractors shall conform to all OSHA, federal, state, county, and City regulations while performing under the terms and conditions of this Agreement. Any fines levied by the above-mentioned authorities because of failure to comply with these requirements shall be borne solely by Contractor responsible for the same.

10.3 Contractor understands and agrees that any information, document, report or any other material whatsoever which is given to Contractor by the City, or which is otherwise obtained or prepared by Contractor pursuant to or under the terms of this Agreement, is and shall at all times remain the property of the City. Contractor agrees not to use any such information, document, report or material for any other purpose whatsoever

without the written consent of the City, which may be withheld or conditioned by the City in its sole discretion.

10.4 Contractor represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right, at its discretion, to terminate the Agreement without liability, to deduct from the Contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

10.5 Contractor understands that agreements between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, record keeping, etc. The City and Contractor agree to comply with and observe all applicable laws, codes and ordinances as they may be amended from time to time.

## **SECTION 11**

### **AUDIT AND INSPECTION RIGHTS**

11.1 The City may, at reasonable times, and for a period of up to three years following the date of final performance of Services by Contractor under this Agreement, audit, or cause to be audited, those books and records of Contractor which are related to Contractor's performance under this Agreement. Contractor agrees to maintain all such books and records at its principal place of business for a period of three years after final payment is made under this Agreement.

11.2 The City may, at reasonable times during the term hereof, perform such inspections as the City deems reasonably necessary to determine whether the Services required to be provided by Contractor under this Agreement conform to the terms of this Agreement. Contractor shall make available to the City all reasonable assistance to facilitate the performance of inspections by the City's representatives.

11.3 Should an independent review of the methodology used to complete the study reveal inadequate methodologies to have been used which are not consistent with current legal renderings, the selected Proposer agrees to make necessary modifications and conduct any subsequent work necessary to achieve study adequacy and appropriateness at no additional cost to the City.

## **SECTION 12**

### **AGREEMENT, AMENDMENTS AND ASSIGNMENT**

12.1 This Agreement constitutes the entire agreement between Contractor and the City, and all negotiations and oral understandings between the parties are merged herein. The terms and conditions set forth in this Agreement supersede any and all previous agreements, promises, negotiations or representations. Any other agreements, promises, negotiations or representations not expressly set forth or incorporated into this Agreement are of no force and effect.

12.2 No modification, amendment or alteration of the terms and conditions contained shall be effective unless contained in a written document executed with the same formality as this Agreement.

12.3 Contractor shall not transfer or assign the performance of Services called for in the Agreement without the prior written consent of the City, which may be withheld or conditioned in the City's sole discretion.

### **SECTION 13** **GOVERNING LAW AND VENUE**

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any action arising out of or relating to this Agreement shall be in Broward County, Florida.

### **SECTION 14** **NOTICES**

Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended, at the place last specified in writing, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Paul Seamon  
3800 Espanola Way Ste 210  
Tallahassee FL 32311  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR CITY:

\_\_\_\_\_  
City Manager  
City of Miramar  
2300 Civic Center Place  
Miramar, Florida 33025  
Telephone: (954) 602-3115  
Facsimile: (954) 602-XXXX

With A Copy to:

Jamie A. Cole, Esq.  
City Attorney  
Weiss Serota Helfman Cole &  
Bierman, P.L.  
200 East Broward Boulevard, Suite 1900  
Fort Lauderdale, Florida 33301  
Telephone: (954) 763-4242  
Facsimile: (954) 764-7770



## **SECTION 15** **NON-DISCRIMINATION**

Contractor represents and warrants to the City that Contractor does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Contractor's performance under this Agreement on account of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services. Contractor further covenants that no otherwise qualified individual shall, solely by reason of his/her race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services, be excluded from participation in, be denied Services, or be subject to discrimination under any provision of this Agreement.

## **SECTION 16** **PUBLIC RECORDS**

Contractor acknowledges that the public shall have access, at all reasonable times, to certain documents and information pertaining to City contracts, pursuant to the provisions of Chapter 119, Florida Statutes. Contractor agrees to maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement and to provide the public with access to public records in accordance with the record maintenance, production and cost requirements set forth in Chapter 119, Florida Statutes, or as otherwise required by law. Contractor shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City. In the event of termination of this Agreement by either party, any reports, photographs, surveys and other data and documents and public records prepared by, or in the possession or control of, Contractor, whether finished or unfinished, shall become the property of City and shall be delivered by Contractor to the City Manager, at no cost to the City, within seven days of termination of this Agreement. All such records stored electronically by Contractor shall be delivered to the City in a format that is compatible with the City's information technology systems. Upon termination of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure. Any compensation due to Contractor shall be withheld until all documents are received as provided herein. Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the City.

**SECTION 17**  
**HEADINGS, CONFLICT OF PROVISIONS,**  
**WAIVER OR BREACH OF PROVISIONS**

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement. In the event of a conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall prevail. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

**SECTION 18**  
**SEVERABILITY**

If any provision of this Agreement or the application thereof to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect and be enforced to the fullest extent permitted by law.

**SECTION 19**  
**SURVIVAL**

All representations and other relevant provisions herein shall survive and continue in full force and effect upon termination of this Agreement.

**SECTION 20**  
**ENTIRE AGREEMENT**

This Agreement represents the entire and integrated Agreement between the City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral.

**SECTION 21**  
**JOINT PREPARATION**

Contractor and the City acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein, and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as


a matter of judicial construction, be construed more severely against one of the parties than the other.

**SECTION 22**  
**COUNTERPARTS**

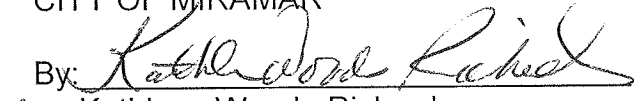
This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same Agreement.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature: City, signing by and through its City Manager, attested to and duly authorized to execute same by the City Commission of the City of Miramar, and by the Contractor, by and through its Executive Vice President, attested to and duly authorized to execute same.

**CITY**

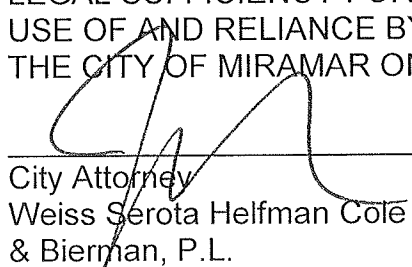
ATTEST:  
  
Denise A. Gibbs, City Clerk

CITY OF MIRAMAR

By:   
Kathleen Woods-Richardson,  
City Manager


<sup>10th</sup>  
This day of October, 2016.

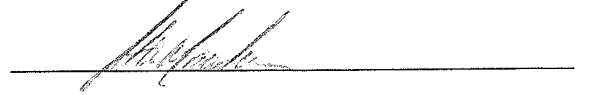
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
USE OF AND RELIANCE BY  
THE CITY OF MIRAMAR ONLY:

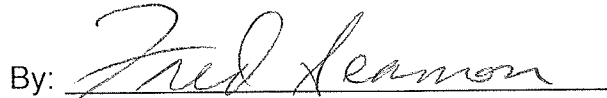
  
City Attorney  
Weiss Serota Helfman Cole  
& Bierman, P.L.

**CONTRACTOR**

WITNESSES:

  
Print Name: Theresa L. Moore

  
Print Name: Steve Moore

By: 

Date: 9/9/16

## Exhibit "A"

### 3. RESOURCES AND METHODOLOGY

#### PROJECT UNDERSTANDING

MGT understands the City wants to conduct its study in phases, with the end result of providing a comprehensive disparity study that will guide the City in the establishment of a program that will increase the utilization of minority and women businesses. However, due to fiscal restraints, MGT recommends the City conduct the study in one combined phase. To address the City's fiscal constraints and deliver a disparity study that is still accurate, reliable, and legally defensible, the following revisions to our original work plan are proposed:

- ✦ Consolidate the work plan into one phase, instead of two.
- ✦ Reduce the number of business owner interviews from 65 to 35.
- ✦ Reduce the number of stakeholder interviews from eight to five.
- ✦ Will not conduct on-site data collection of hard copy data.

#### APPROACH AND METHODOLOGY

**MGT's overall approach is premised on producing a study which is accurate, reliable, valid, and legally defensible.** Study accuracy, reliability, and validity are essential elements in any rigorous methodologically sound research study. *Reliability* is the extent to which results are consistent over time reflecting an "accurate" representation of the study population and the study results can be replicated using the same methodology. On the other hand, *validity* determines whether the study results truly measure what was intended to be measured. To ensure our study aligns with prevailing standards for accuracy, reliability, validity, and legal defensibility, we will utilize rigorous research methods consistent with prevailing industry and legal standards.



MGT's approach addresses data validity and credibility through a well-defined data management and data quality control process that allows MGT to analyze accurate and reliable data by procurement type, supplemented by obtaining capacity information by surveying vendors and conducting multiple regression analyses. Part of our approach will entail closely communicating and working with the City to ensure full and complete understanding and acceptance of these methodologies before they are deployed. Our approach also recognizes and takes into account this is the City's first study. The MGT disparity team will work closely with City staff so they understand how the study is being conducted, how the different pieces of the study fit together, how to best communicate with the City's key stakeholders about what the study is intended to provide, and what role staff can play to assist MGT in getting what it needs to conduct the study.

Our research begins with an overarching research question: ***Is there factual predicate evidence for a race- and gender-based program?*** To answer this question, we will research three supporting questions:

1. Is there statistically significant evidence of disparity between the availability and utilization of DBEs by the City and/or primes working for the City?
2. Is there statistically significant evidence of passive participation by the City in any identified discrimination and disparate treatment of DBEs in the private sector?
3. Is there anecdotal evidence of discrimination and disparate treatment of DBEs by the City, the City's primes, and/or in the private sector?

We will use these research questions to test the hypothesis:

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***THERE IS FACTUAL PREDICATE EVIDENCE FOR A RACE- AND GENDER-BASED PROGRAM.***

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Addressing the research questions, hypothesis, and related issues will shape all data collection and analysis, legal framework, methodological tools, and all other aspects of the disparity study. Most important, these questions also are embedded in our work plan and will be used to guide the performance all work plan tasks. MGT's success in managing complex studies is a result of incorporating project management and an in-person discussion about project expectations, deliverables, methodologies, and then finalizing a work plan that meets the client's needs.

MGT also proposes establishing a secure SharePoint site for the City. SharePoint is a web-based collaboration tool that facilitates the sharing of information and documents. We will use the site to share documents, data, calendars, and reports. The SharePoint site is password protected and access is provided to individuals whose access is necessary to upload, review, and download information.

## PROPOSED WORK PLAN

MGT's proposed work plan is presented in the sections below and is based upon the Scope of Services and Special Requirements in Section 3-2 in the City's RFP. The sequence of work tasks for disparity studies is not linear in occurrence, therefore, some tasks will not begin in the order presented. In addition, it should be noted that a Project Management task is incorporated and integrated into the proposed work plan from the start to the finish of the disparity study. To ensure the proposed work plan is fully aligned with the City's expectations and needs the work plan will be reviewed with the City as part up project start-up and will be revised as needed. A well-defined Project Management (PM) system is essential on a project such as this one.

### TASK 1.0: PROJECT MANAGEMENT

We incorporate project management as a major task in order to monitor the progress of the project tasks, ensure the quality of deliverables, and to achieve the study's objectives in an efficient and timely manner. MGT's Project Director is responsible for the day-to-day project management and quality assurance, assignments to MGT staff, scheduling meetings, reporting, project scheduling, budget, etc. To manage tasks, costs, and resources MGT utilizes Microsoft Office Project. Microsoft Project allows us to

overlay schedules to identify gaps or resources that are overburdened, and to implement a course correction and complete the project on time and within budget.

#### OBJECTIVES

- ♦ Manage and oversee timely and accurate completion of project deliverables.
- ♦ Maintain regular communication with the City's project management staff.
- ♦ Provide oversight and management of consulting staff and subcontractors.
- ♦ Ensure quality control of all deliverables.
- ♦ Meet with the City's personnel as requested.

#### ACTIVITIES

- 1.1 Provide monthly status reports in a form as requested by the City.  
Status reports shall include, but not limited to: accomplishments, pending tasks, roadblocks, personnel utilization with number of hours, percentage of task completed.
- 1.2 Conduct weekly meetings with MGT project staff.
- 1.3 Conduct weekly meetings with subcontractors as their work begins.
- 1.4 Maintain consistent communication with the City Project Manager by establishing scheduled meetings during the project.
- 1.5 Update and manage project schedules.
- 1.6 Utilize MGT's quality control process for all deliverables.
- 1.7 Schedule and conduct interim meetings with City management.

#### DELIVERABLES

- ♦ Monthly progress reports.
- ♦ Updated project schedules.
- ♦ Conduct interim meetings via conference/video calls.

### TASK 2.0: INITIATE PROJECT AND FINALIZE WORK PLAN

It is very important the City has a full and complete understanding of how their study will be conducted; the challenges involved in conducting their study; and the level of support, coordination, and cooperation that will be necessary throughout the study process. As a precursor to beginning the core project tasks, MGT will conduct a project kick-off meeting and other activities to establish roles and responsibilities of MGT staff as well as those of the City. During this project initiation process, MGT and the City will meet face-to-face to discuss and make final decisions on the most appropriate work tasks to guarantee that the City's study requirements and needs are carefully and fully met.

#### OBJECTIVE

- ♦ Establish a final, mutually acceptable detailed work plan, schedules, project deliverables, and relationships.

## ACTIVITIES

- 2.1 Meet with the City's Project Manager and key personnel to initiate the project and establish reporting and working relationships.
- 2.2 Discuss the format, availability, and accessibility of the data MGT needs in order to conduct the study. Thoroughly explain the data evaluation process and distribute Data Evaluation Questionnaire.
- 2.3 Conduct kick-off meeting.
- 2.4 Prepare a draft list of definitions to be used for the study.
- 2.5 Review draft data parameters with the City's Project Manager. Make appropriate changes to the parameters.
- 2.6 Develop recommended changes to the work plan based upon the discussion of data availability and accessibility.
- 2.7 Finalize work plan.

## DELIVERABLE

- ♦ Final and mutually agreed upon work plan.

**TASK 3.0: CONDUCT A DETAILED LEGAL REVIEW**

The study conducted for the City must comply with applicable legal and industry standards as set forth in *Croson*, *Adarand*, *Engineering Contractors*, *Hershell Gill Consulting Engineers*, and other relevant cases.

- ♦ The *Croson* decision required that local government agencies' race preference contracting programs be able to withstand strict scrutiny review to avoid violating the Equal Protection Clause of the Fourteenth Amendment.
- ♦ Strict scrutiny review requires that an agency demonstrate a "compelling interest" in the remedial purpose of the MBE program and that the program itself must be "narrowly tailored" to meet the remedial goal.<sup>1</sup>
- ♦ The requirement that the remedy be "narrowly tailored" is a very real restriction on the development of DBE programs. However, the federal circuit courts have consistently found the federal DBE program to be narrowly tailored.<sup>2</sup>

It is critical that the study's methodology be based on guidelines established by the courts and within the legal framework. To ensure legal sufficiency of our methodology, MGT will conduct a thorough review of the court decisions in cases subsequent to *Croson* and *Adarand*. Our proposed methodology was crafted with appellate court decisions (the Eleventh Circuit in particular) in mind, and the relevance of the private sector and non-goal analyses and the impact on utilization of D/M/WBEs in the absence of

<sup>1</sup> *Croson*, at 727-28.

<sup>2</sup> See, e.g., *Sherbrooke Turf v. Minnesota Department of Transportation*, 345 F.3d 964 (8<sup>th</sup> Cir 2003). *Western States Paving v. Washington DOT*, 407 F. 3d 983 (9<sup>th</sup> Cir. 2005).

a remedial program. We will adapt our methodology to conform to court decisions based on new legal information obtained during the study.

#### OBJECTIVE

- ♦ Provide a detailed overview of the methodological and program requirements necessary to adhere to the decisions in *Croson*, *Adarand*, *Engineering Contractors*, *Hershell Gill Consulting Engineers*, and other relevant court opinions.

#### ACTIVITIES

- 3.1 Identify and obtain the opinions in the Eleventh Circuit Court of Appeals and other relevant court cases.
- 3.2 Conduct a detailed review of each set of opinions.
- 3.3 Prepare a list of the methodological and program requirements in each opinion.
- 3.4 Determine if there are any pending legal cases that may affect contracting programs related to D/M/WBEs and other local developing business enterprises.
- 3.5 Monitor new cases in the area of equal protection and affirmative action in general and assess their impact on the City.
- 3.6 Prepare a legal review summarizing prior cases and identifying relevant program requirements.
- 3.7 Review draft legal review with the City's Project Manager and make appropriate revisions.

#### DELIVERABLE

- ♦ Legal review of *Croson*, *Adarand*, *Engineering Contractors*, *Hershell Gill Consulting Engineers*, and other relevant court cases with emphasis on program and methodological requirements.

### TASK 4.0: REVIEW POLICIES, PROCEDURES, AND PROGRAMS

MGT will conduct an in-depth review of the City's procurement and D/M/WBE policies that governed D/M/WBE procurement programs during the study period. We will review existing and archived City documents and conduct key informant interviews to closely determine the history of the City purchasing and contracting policies, procedures, and actual practices. In addition, we will examine bidder notifications (bulletins), utilization reports, annual reports, invitation to bid, plan holder lists, bid tabulations, complaint data, and award notifications. If the disparity analysis warrants, MGT will further examine policies to determine if City policies were a contributing factor.

#### OBJECTIVES

- ♦ Identify and analyze relevant City policies, procedures, practices, and programs during the relevant time period of the study.
- ♦ Review previous disparity studies conducted for the City, if applicable.

#### ACTIVITIES

- 4.1 Obtain and review contracting and purchasing manuals currently in use.



- 4.2 Interview City staff, to include but not be limited to elected and appointed officials responsible for issuing contracts. Discuss the following with personnel:
  - Methods contracts are awarded.
  - Discuss procurement policies.
  - Actual procurement practices.
  - Methods of advertising procurement opportunities.
  - Changes that contracting and purchasing policies have undergone during the relevant study period and the effect on City contracting.
- 4.3 Review City policies and procedures that guide the D/M/WBE contracting.
- 4.4 Review previous disparity studies and any other disparity studies conducted in the City's market area.
- 4.5 Examine how policies impact the data collection methodology.
- 4.6 Obtain and review D/M/WBE program policies within the City's market area.

**DELIVERABLE**

- ♦ Conduct a detailed, in-depth review of the City's purchasing and contracting policies and procedures and Disadvantaged Business Enterprise policy found in the City Code.

**TASK 5.0: CONDUCT DATA EVALUATION****OBJECTIVES**

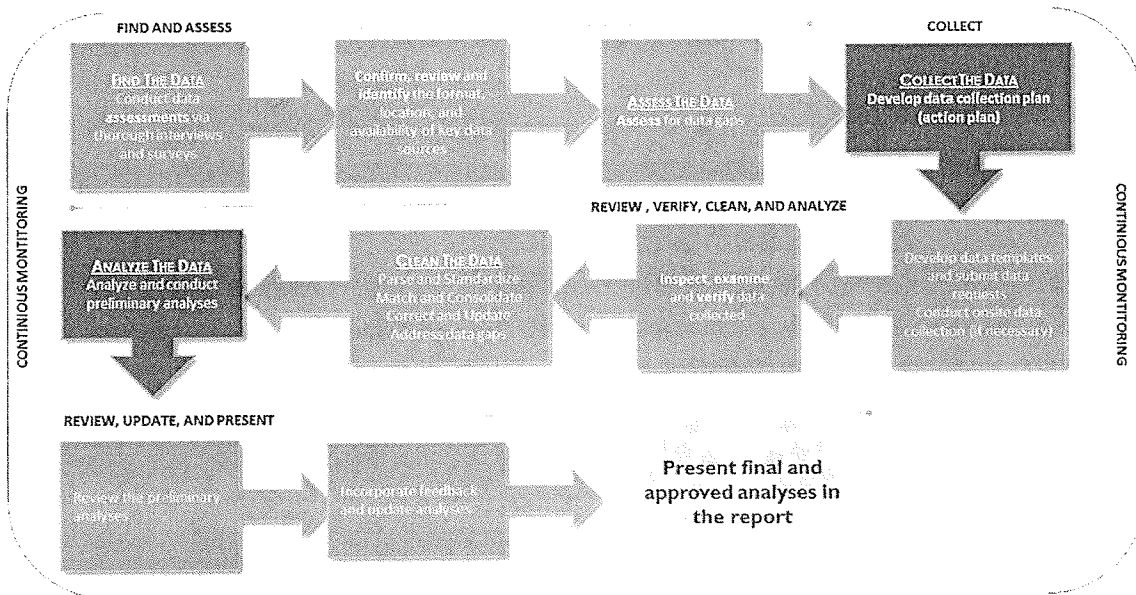
- ♦ Evaluate the availability, access, format, and completeness of the data for the study period.
- ♦ Determine the appropriate statistical methodology for extraction and analysis of payment and contract data.
- ♦ Prepare data collection plan for collecting, analyzing, and reporting the data.
- ♦ Design table templates for reporting prime and subcontractor analyses.

**ACTIVITIES**

- 5.1 Work with the City Project Manager to identify personnel with knowledge of vendor, procurement, bidder, and subcontractor data. The City's personnel may include but are not limited to IT personnel, finance personnel, procurement personnel, and contracting personnel.
- 5.2 Meet with identified City personnel to determine how payment, vendor, bidder, and subcontractor data are maintained.
- 5.3 Review existing payment databases. Summarize information in databases and files; record volumes, dollar amounts over time, and ease of accessibility to the information in those databases.
- 5.4 Administer an online data evaluation survey to personnel knowledgeable of type, format, and availability of vendor, payment, bidder, and subcontractor data.

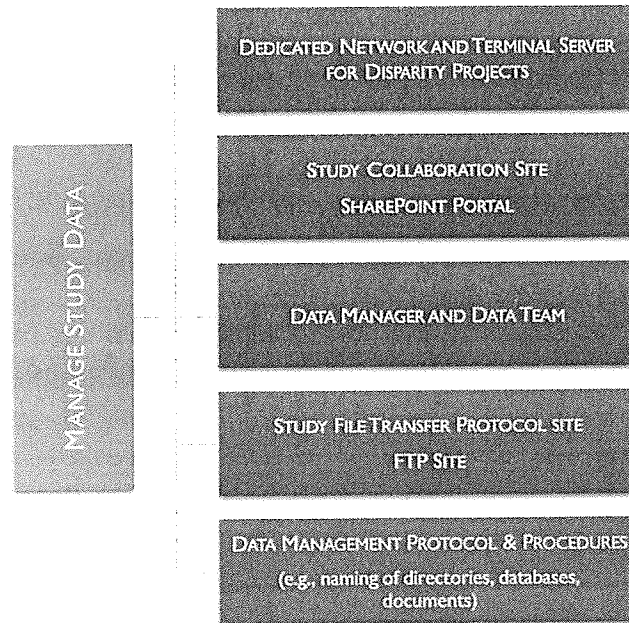
- 5.5 Develop methodology to collect utilization data. Revise work plan and project schedule based upon outcomes of the data evaluation.
- 5.6 Review and receive approval for data collection methodology from the City Project Manager.

The following exhibit demonstrates the process in which MGT will assess, collect, and organize the City's data to ensure completeness and accuracy.



The following exhibit demonstrates the process in which MGT will manage, access, and protect the data provided by the City.

#### MGT DATA MANAGEMENT FLOWCHART



As a result of our extensive experience with the collection, management, and analyses of complex data sets, our team brings advanced skill, knowledge, talent, and expertise in using a wide variety of data software. The following provides a snapshot of the data software our team has access to as well as skill level and expertise in using.

#### DATA SOFTWARE SNAPSHOT

DATA SOFTWARE PROGRAMS	TYPE OF SOFTWARE	DATA SOFTWARE ACCESS	DATA SOFTWARE EXPERTISE	SKILL LEVEL (BASIC, INTERMEDIATE, ADVANCED)
DATAMATCH	Data Cleaning Software	✓	✓	Advanced
MICROSOFT ACCESS	Data Management	✓	✓	Advanced
IBM SPSS STATISTICS	Statistical Analysis Software	✓	✓	Advanced
MICROSOFT EXCEL	Spreadsheet Application	✓	✓	Advanced
QUALTRICS	Online Survey Software	✓	✓	Advanced
TURNINGPOINT	Interactive Polling Software	✓	✓	Advanced
B2GNow	Diversity Management and Compliance Software	✓	✓	Advanced
PRISM	Diversity Management and Compliance Software	✓	✓	Advanced

DATA SOFTWARE PROGRAMS	TYPE OF SOFTWARE	DATA SOFTWARE ACCESS	DATA SOFTWARE EXPERTISE	SKILL LEVEL (BASIC, INTERMEDIATE, ADVANCED)
BINARY FOUNTAIN	Diversity Management and Compliance Software	✓	✓	Advanced
LCPTRACKER	Labor Compliance Software	✓	✓	Advanced

### DATAMATCH

This is a data cleaning, matching, and de-duplication software. Our team uses this software to assess and determine the quality of the data in order to develop standardized and valid datasets. While this is not the sole software or process we use in our data preparation and cleaning process, this software is used as one of the initial steps.

### MICROSOFT ACCESS

We use this data management software to develop databases that store large amounts of data. In addition to using Access to store data, we develop queries to import and export various data formats (spreadsheets, text, comma separated values, delimited, databases); assess, prepare, clean, update, and standardize data; and compile and merge data as well as conduct analyses such as cross tabulations.

### IBM SPSS STATISTICS

We use this statistical analysis software for a variety of data management and analyses purposes. Our team occasionally uses the graphic user interface, but we are experienced and typically code or write syntax to complete tasks when using IBM SPSS Statistics (SPSS). We have found writing the syntax is more reliable and efficient when working with varying size and complex data. Our team writes syntax that allows for the following: import various data formats; assess, prepare, and validate data; transform, such as compute and recode data; and conduct analyses such as frequencies, custom tables, cross tabulations, correlation, and regression.

### MICROSOFT EXCEL

This is a spreadsheet software our team uses to assess, review, organize, prepare, and format data so the data can easily imported into Access, SPSS, etc. We sometimes use this software to import various data formats. We use Excel to conduct calculations, including developing formulas, functions, and pivot tables. By using Excel, we are able to create custom charts, graphs, tables, and figures that display the calculations, frequencies, cross tabulations, and regression results.

### QUALTRICS

This is an online software tool we use to program, create, and distribute custom web-based surveys (such as data assessment surveys). By using this tool, our team is able to develop surveys with more options in the question types (descriptive, multiple choice, matrix tables, rank order, constant sum, side by side, drill down, etc.) as well as more options in advanced programming (such as carry forward choices, skip and display logic, survey flow), which allows us to develop surveys that direct what the respondents see and where they go.

### TURNINGPOINT SOFTWARE

This is a polling software and kit that includes handheld devices and integrates with Microsoft PowerPoint. During public hearings our team uses TurningPoint to create an interactive environment. By using TurningPoint, we are able to poll business owners by asking interactive questions. The business

owners answer the questions by using the handheld devices and in real-time we receive the responses and are able to display the results in presentation-friendly graphs and charts via Microsoft PowerPoint. We are able to use these real-time results to better facilitate the discussions. We are not only able to create an interactive and engaging environment, but also capture data, analyze trends, and discuss business owners' experiences in attempting to do business or doing business with an agency, the private sector, prime contractors. We also are able to collect and, in real-time, discuss information on the firms (such as number of employees, years of experience).

#### DELIVERABLE

- ♦ Data collection methodology and plan.

### TASK 6.0: DETERMINE PRODUCT MARKET

#### OBJECTIVES

- ♦ Collect electronic utilization, vendor, prime, and subcontractor data.
- ♦ Collect and develop the City's Master Availability Database.

#### ACTIVITIES

- 6.1 Work with appropriate City personnel to transfer available data to a PC-compatible environment.
- 6.2 Collect data from outside sources, such as local and state D/M/WBE certification lists, commercial building permits, and construction-related data such as iSqFt.
- 6.3 Design a computerized database to record and analyze market area, business type, and utilization data.
- 6.4 "Clean" data elements for consistency, formatting, and verification. This will include the removal of unnecessary data, e.g., employees, other government agencies, nonprofit organizations, and other data elements as appropriate.
- 6.5 To the extent possible, identify the race and/or gender of each firm's owner.
- 6.6 Assign NIGP codes to the utilization data for industry categories: construction, construction-related professional services (includes architectural and engineering), and general services.
- 6.7 Design separate utilization tables for prime and subcontractor analyses, which will include analyses by industry category and D/M/WBE groups.
- 6.8 Calculate utilization by NIGP code.

Upon completion of preparing and analyzing the data, the output will look similar to **Table 1**. This example provides the analysis by the six-digit NAICS code, however, preliminary analyses will be conducted using NIGP codes.

**TABLE 1: RELEVANT PRODUCT ANALYSIS**

NAICS CODE AND TEXT DESCRIPTION		CONTRACT DOLLARS	PERCENT OF CONTRACT DOLLARS	CUMULATIVE PERCENTAGE <sup>1</sup>
<b>CONSTRUCTION</b>				
236220	Commercial and Institutional Building Construction	\$781,126,091	37.43%	37.43%
237310	Highway, Street, and Bridge Construction	\$564,113,747	27.04%	64.47%
237110	Water and Sewer Line and Related Structures Construction	\$18,631,139	8.94%	73.42%
238210	Electrical Contractors and Other Wiring Installation Contractors	\$102,765,777	4.92%	78.34%
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$63,111,080	3.04%	81.38%
238120	Structural Steel and Precast Concrete Contractors	\$47,430,322	2.27%	83.65%
561730	Landscaping Services	\$32,859,298	1.57%	85.23%
484220	Specialized Freight (except Used Goods) Truck and Trailer	\$27,889,097	1.34%	86.56%
238910	Site Preparation Contractors	\$25,683,046	1.23%	87.79%
238310	Drywall and Insulation Contractors	\$24,777,246	1.19%	88.98%
238390	Other Building Finishing Contractors	\$19,891,948	0.95%	89.93%
562910	Remediation Services	\$16,783,845	0.80%	90.74%
238160	Roofing Contractors	\$15,381,777	0.74%	91.48%
237990	Other Heavy and Civil Engineering Construction	\$14,258,135	0.68%	92.16%

**DELIVERABLES**

- Collection of prime, subcontractor, D/M/WBE, and vendor data.
- Develop a representative list of services typically procured by the City.

**MILESTONE**

- Data collected.

**TASK 7.0: DETERMINE THE RELEVANT GEOGRAPHIC MARKET****OBJECTIVE**

- Establish the relevant geographic market analysis for D/M/WBE for each type of procurement.

**ACTIVITIES**

- 7.1 From the statistics gathered from vendor and utilization data, determine the location of successful vendors. Confirm the geographic area from which prime and subcontractors or vendors are hired for each type of procurement. The three options of: 1) National Approach/National Option; 2) Metropolitan Statistical Area Approach/Localized Option; and 3) State of Florida Approach/State Option; will be discussed with the City in order to determine the most viable approach.
- 7.2 Where necessary, research, verify, and update vendor location data in the City's Master Availability Database.

- 7.3 Adjust utilization data for brokers and related issues.
- 7.4 Discuss the options of determining the relevant geographic market.

MGT proposes to structure the relevant market area analysis using **Table 2** below, which identifies the percentage of dollars spent inside or outside of the established geographic market area. This analysis will be conducted for each procurement category included in the study.

**THE NUMBERS REPRESENTED ARE USED FOR EXAMPLE ONLY AND DO NOT REPRESENT THE CURRENT UTILIZATION FOR THE CITY.**

**TABLE 2: RELEVANT MARKET ANALYSIS BY THE COUNTY**

LOCATION OF FIRMS	DOLLARS PAID	PERCENT OF DOLLARS	CUMULATIVE PERCENT <sup>1</sup>
<b>ENGINEERING</b>			
<b>Inside San Antonio MSA</b>			
BANDERA COUNTY, TX	\$0	0.0	0.00%
BEXAR COUNTY, TX	\$63,715,308	96.54%	96.54%
COMAL COUNTY, TX	\$277,645	0.42%	96.96%
WILSON COUNTY, TX	\$0	0	96.96%
<b>Inside San Antonio MSA, Total</b>	<b>\$63,992,953</b>	<b>96.96%</b>	
<b>Outside San Antonio MSA</b>			
HARRIS COUNTY, TX	\$1,4361	2.23%	99.20%
TRAVIS COUNTY, TX	\$79,73	0.42%	99.62%
DALLAS COUNTY, TX	\$251,677	0.38%	100.00%
<b>Outside San Antonio MSA, Total</b>	<b>\$2,004,111</b>	<b>3.04%</b>	
<b>ENGINEERING, TOTAL</b>	<b>\$65,997,064</b>	<b>100.00%</b>	

#### DELIVERABLE

- Market area report for each procurement category showing location of firm, number of contracts/payment, percentage of contracts/payment, number of firms, percentage of firms, dollar amount, and percentage of dollar amount.

#### TASK 8.0: ESTIMATION OF D/M/WBE AVAILABILITY

Calculating availability is a critical component of determining disparity. Because the U.S. Supreme Court nor circuit courts have not addressed a single appropriate data source for establishing availability, MGT utilizes multiple sources to determine estimates of availability, where available.

MGT will gathered data, where available from bidders, certification lists, contracts, and firms registered with the City. MGT will measure qualifications, willingness, and capabilities, and capable using the sources below.

##### a. Primes

- MGT will use prequalified bidders that bid on contracts to determine the availability of prime contractors (qualified and capable).
- If prequalified bidder data are not available, the study will focus on prequalified firms (qualified and capable).

- iii. Bidders (qualified and capable).
- iv. If prequalified data are not available, MGT will use prime vendor data which includes registered and utilized firms (qualified and capable).

**b. Subcontractors**

- i. Certification lists maintained by the City or utilized by other market area agencies in the market area will be used in conjunction with the sources identified above (willingness).
- ii. Registered and utilized subcontractors (qualified and capable).
- iii. Subcontractor bidders (capable).

MGT will determine availability for the City's D/M/WBE and non- D/M/WBE firms (prime contractors/consultants and subcontractors/subconsultants) based on information from this Master Availability Database.

Our approach to conducting the availability analysis will include:

- a) Identify the procurement type, ownership classification, and location of firm based on contract data.
- b) Identify businesses in the Master Availability database that report being qualified and interested in performing that specific procurement type for the City in the geographic location.
- c) Determine the number of minority-and women-owned businesses among all businesses available for that particular procurement type (e.g., 10 African-American firms, two Asian-American firms, etc.).
- d) Translate the numeric availability for a procurement type into percentage availability estimates.
- e) Multiply the percentage availability estimates by the dollars associated with the procurement type, add results across all procurement types, and divide by total dollars for all procurement types to produce a dollar-weighted estimate of overall availability of minority-and women-owned businesses.

## OBJECTIVES

- ✦ Determine the pool of available contractors, subcontractors, and vendors who can provide services to the City:
  - By industry category.
  - By D/M/WBE classification.
  - In the relevant market area.
- ✦ Analyze the availability of D/M/WBE firms in the market area.

## ACTIVITIES

- 8.1 From all lists collected, create a Master Availability Database of contractors/vendors. To the extent feasible, from available information, the Master Availability Database will include data and information for each firm that will enable us to classify firms according to the established criteria. Examples of information include, but are not limited to:



- |                    |                           |                        |  |
|--------------------|---------------------------|------------------------|--|
| – Name             | – Contact Person          | – Certification Status | – Total Annual Revenues                                |
| – Address          | – D/M/WBE Status          | – Year Founded         | – Description of Services Provided by NAICS*/NIGP Code |
| – Telephone Number | – Race, Ethnicity, Gender | – Number of Employees  |  |

*\*For any data received using North American Industry Classification System (NAICS) codes, we will conduct a crosswalk to translate NAICS codes to NIGP.*

- 8.2 Using the data collected, determine the number of available firms by D/M/WBE category in the relevant market area.
- 8.3 Prepare a preliminary availability report showing the number, availability, and location of D/M/WBEs in the market area in each of the identified procurement categories.
- 8.4 Review the preliminary availability analysis with the City Project Manager and make appropriate revision.

MGT proposes to structure the availability analysis similar to the example in **Table 3**, which identifies the number and percentage of available firms, located in the market area. This analysis will be conducted for each identified procurement category included in the study.

**THE NUMBERS REPRESENTED ARE USED FOR EXAMPLE ONLY AND DO NOT REPRESENT THE CURRENT UTILIZATION FOR THE CITY.**

**TABLE 3: AVAILABILITY ANALYSIS OF CONSULTING SERVICES PRIME FIRMS**

BUSINESS OWNERSHIP CLASSIFICATION	CONSTRUCTION	
	#	Percent
<b>D/M/WBE Firms</b>		
African Americans	1	0.50%
American Indians/Alaska Natives	6	2.97%
Asian Indian/Pacific Islanders	0	0.00%
Hispanic Americans	4	1.98%
Nonminority Women	6	2.97%
<b>Total D/M/WBE Firms</b>	<b>32</b>	<b>15.84%</b>
Non-D/M/WBE Firms	<u>170</u>	<u>84.16%</u>
<b>TOTAL</b>	<b>202</b>	<b>100.00%</b>

#### DELIVERABLES

- ♦ Prepare a preliminary availability study and report showing the percentage of availability by D/M/WBE and non-D/M/WBE classifications and industry classifications in the market area.
- ♦ Deliver a complete listing of available firms in an electronic format.

## TASK 9.0: CONDUCT UTILIZATION ANALYSIS

#### OBJECTIVES

- ♦ Determine the percentage of prime and subcontractor utilization in the specified industry categories to D/M/WBEs and non-D/M/WBEs during the relevant time period by relevant market area.

- ♦ Analyze utilization for the City.
  - By procurement type: construction, construction-related professional services (includes architectural and engineering), and general services, and goods as defined by the City.
  - By a minimum of three-digit NIGP, NAICS, or designated code.
  - By year and in summary.
  - By dollar amount and percentages.
  - By MBE, WBE, and non-D/M/WBE status.

#### ACTIVITIES

- 9.1 For the study period, compile, categorize, and analyze D/M/WBE and non-D/M/WBE participation for contracts and payments within the market area.
- 9.2 Analyze data to create a summary report with percentage and dollar amounts of awards or payments for each year and in total by procurement category and D/M/WBE classification.
- 9.3 Review the preliminary utilization analysis with the City Project Manager and make appropriate revisions.

**Table 4** shows an example of how MGT proposes to show the dollars and percentage of dollars paid to firms located in the relevant geographic market area by each year of the study period and D/M/WBE classification. This analysis will be conducted for each procurement category included in the study.

THE NUMBERS REPRESENTED ARE USED FOR EXAMPLE ONLY AND DO NOT REPRESENT THE CURRENT UTILIZATION FOR THE CITY.

**TABLE 4: UTILIZATION ANALYSIS OF CONSULTING SERVICES PRIME CONTRACTORS**

BUSINESS OWNERSHIP CLASSIFICATION	2008-09 (\$)	2009-10 (\$)	2010-11 (\$)	2011-12 (\$)	2012-13 (\$)	TOTAL (\$)
African American	\$0	\$764,776	\$586,860	\$973,649	\$92,076	\$2,417,362
Asian American	\$0	\$0	\$0	\$0	\$687	\$687
Hispanic American	\$133,216	\$356,337	\$286,748	\$15,474,462	\$7,000,042	\$18,268,705
Native American	\$842,683	\$3,790,461	\$3,192,902	\$536,131	\$274,036	\$8,586,262
<b>Subtotal MBE Firms</b>	<b>\$975,899</b>	<b>\$4,911,575</b>	<b>\$4,066,510</b>	<b>\$16,010,642</b>	<b>\$7,274,178</b>	<b>\$29,273,017</b>
Nonminority Women	\$1,480,341	\$1,258,947	\$1,183,077	\$1,712,125	\$1,712,125	\$6,548,418
<b>Total MBE Firms</b>	<b>\$2,456,240</b>	<b>\$6,170,521</b>	<b>\$5,249,587</b>	<b>\$17,722,767</b>	<b>\$8,986,303</b>	<b>\$35,821,435</b>
Non-MBE Firms	\$22,035,486	\$62,691,179	\$922,811	\$197,486,000	\$97,194,845	\$462,331,552
<b>TOTAL</b>	<b>\$24,491,726</b>	<b>\$68,861,691</b>	<b>\$88,172,402</b>	<b>\$216,260,299</b>	<b>\$100,366,619</b>	<b>\$498,152,988</b>
	(%)	(%)	(%)	(%)	(%)	(%)
African American	0.00	1.1	0.67%	0.45%	0.09%	0.49%
Asian American	0.00	0.00%	0.00%	0.00%	0.00%	0.00%
Hispanic American	0.54	0.52%	0.33%	7.16%	2.01%	3.67%
Native American	3.44%	5.50%	3.62%	0.25%	0.22%	1.72%
<b>Subtotal MBE Firms</b>	<b>3.98%</b>	<b>7.13%</b>	<b>4.61%</b>	<b>7.85%</b>	<b>2.33%</b>	<b>5.88%</b>
Nonminority Women	6.04%	1.83%	1.34%	0.83%	0.83%	1.31%
<b>Total MBE Firms</b>	<b>10.03%</b>	<b>8.96%</b>	<b>5.95%</b>	<b>8.68%</b>	<b>3.16%</b>	<b>7.19%</b>
Non-MBE Firms	89.97%	91.04%	94.05%	91.32%	96.84%	92.81%
<b>TOTAL</b>	<b>\$24,491,726</b>	<b>\$68,861,691</b>	<b>\$88,172,402</b>	<b>\$216,260,299</b>	<b>\$100,366,619</b>	<b>\$498,152,988</b>

#### DELIVERABLE

- Utilization report of D/M/WBE and non-D/M/WBE firms in the relevant market area by industry classification.

#### TASK 10.0: CONDUCT DISPARITY ANALYSIS

MGT's statistical model consists of two major components, which are designed to perform the necessary statistical tests to determine the disparity ratio. The first component is the calculation of the disparity index. The second component is the determination of statistical significance.

#### DISPARITY INDEX

Once the utilization of D/M/WBE firms has been determined, it must be compared to the available firms in the relevant market area. To demonstrate an evidentiary basis for enacting a race-conscious program and to satisfy *Crosen's* compelling interest prong, governmental entities must present evidence of underutilization of D/M/WBEs that would give rise to an inference of discrimination in public contracting.<sup>3</sup> MGT will determine disparity by creating a disparity index as well as using statistical significance testing.

#### DISPARITY INDEX FORMULA

Disparity Index =

$$\frac{\%U_{m,p1} + \%A_{m,p1}}{2} \times 100$$

$U_{m,p1}$  = utilization of minorities- and women-owned firms, for procurement

$A_{m,p1}$  = availability of minorities- and women-owned firms, for procurement

<sup>3</sup> *City of Richmond v. Croson*, at 509.

The disparity index is the ratio of the percentage of utilization and the percentage of availability times 100. Generally, disparity indices of 80 percent or greater—which are close to full participation—are not considered significant.<sup>4</sup>

## STATISTICAL ANALYSES

The second component of our statistical model includes the determination of statistical significance. Most federal circuits have supported the use of standard deviation analyses to test the statistical significance of disparity indices. In addition to the disparity index, we will conduct Standard Deviation

**STANDARD DEVIATION FORMULA**

$$t = \frac{u - a}{\sqrt{\frac{a \cdot (1 - a) \cdot \sum c_i^2}{(\sum c_i)^2}}}$$

$t$  = the t-statistic  
 $u$  = the ratio of minorities- and women-owned firms dollars to total dollars  
 $a$  = the ratio of D/M/WBE firms to all firms  
 $c$  = the dollar amount

tests to ascertain the significance of the difference between the availability and utilization. With Standard Deviation analyses, the reviewer can determine whether the disparities are substantial or statistically significant, which lends further statistical support to a finding of discrimination.

Standard Deviation analysis measures the probability that a result is a random deviation from a predicted result: the greater the number of standard deviations, the lower the probability the result is a random one. The accepted standard used by the Court is two standard deviations. That is, if there is a result of fewer than two standard deviations, then one can assume the results are insignificant, or that no disparity exists.

## ACTIVITIES

- 10.1 Develop a draft set of disparity analyses (in the form of report layouts) to be conducted.
- 10.2 Subject disparity analyses to statistical tests to determine statistical significance
- 10.3 Review the disparity calculations and standard deviation tests with the City's Project Manager, and make appropriate revisions.
- 10.4 Utilizing the disparity analyses, conduct t-tests to determine if there is a statistical difference between utilization and availability.
- 10.5 Review the preliminary disparity analysis with the City's Project Manager and make appropriate revisions.

## DELIVERABLE

- ♦ Set of disparity indices, standard deviation tests by industry categories for each of the following categories:
  - D/M/WBE classification.
  - Non-D/M/WBE classification.
  - Prime contractor.
  - Subcontractor.

<sup>4</sup> *Engineering Contractors Assn. of South Florida, Inc.*, 122 F.3d at 914. See also *Contractors Association of Eastern Pennsylvania, Inc. v. Philadelphia*, 91 F.3d 586 (3d Cir. 1996).

## TASK 11.0: ANECDOTAL EVIDENCE OF DISCRIMINATION

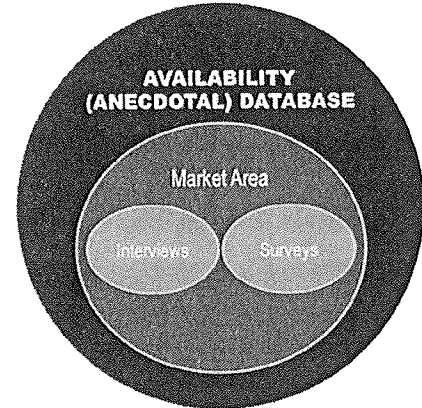
Upon completion of the disparity analysis, if evidence of discrimination exists, MGT will collect anecdotal data to determine the extent to which any identified disparity may have been caused by unlawful race or gender-based discrimination. Our anecdotal analysis is more robust than what is required by case law and includes separate stakeholder interviews. MGT's anecdotal methodology utilizes a multi-pronged approach that includes the following:

- ✦ Utilizing statistical findings of disparity to identify specific areas of anecdotal inquiry instead of broadly seeking anecdotal evidence in the absence of a statistical finding of disparity.
- ✦ Utilizing an anecdotal methodology that places a high premium on investigative techniques to document, corroborate, and isolate singular anecdotal experiences of business firms, individuals, governmental entities, private institutions, agency staff, and contractors, among others.
- ✦ Investigation, documentation, and analysis of institutional practices that are critical to the ability of firms to build capacity to remain viable in the business marketplace. This includes using primary and secondary data sources to review differential outcomes related to banking, insurance, suppliers, and other marketplace institutions that are essential for building capacity, and utilizing the results of the analyses to draw inferences and conclusions about adverse impact.

We will gather anecdotal information regarding contracting and purchasing practices in the City's relevant market area from D/ M/WBE and non-D/M/WBE firms through collection of formal complaints, community meetings, and surveys in accordance with prevailing court guidelines.

- ➔ MGT will conduct **35 in-depth interviews** with area businesses to seek information on the history of D/M/WBE utilization, issues with trade unions, discrimination faced, and impediments to D/M/WBE participation in procurement and contracting.
- ➔ We will conduct **two public hearings** to collect official testimony from businesses related to experiences doing business or attempting to do business with the City, their primes, and in the private sector.
- ➔ Included in the anecdotal data collection will be discussions with **5 area stakeholders**, e.g., trade associations and business organizations who provide professional development for D/M/WBE firms. Stakeholder interviews are important in order to understand the usefulness and impact of programs offered by trade associations and business associations to the development and growth of D/M/WBE firms in the marketplace.

The target population for the anecdotal evidence will be firms working or seeking work with the City, with the samples drawn from the Master Anecdotal database developed for the study. The geographical area will be in the City's relevant market. The sampling technique for the anecdotal will be to survey the entire availability list in at least one of the anecdotal activities.



#### OBJECTIVES

- ♦ If evidence of discrimination exists, identify, analyze, and document unlawful discrimination during the study period that have affected the ability of D/M/WBE firms to enter and prosper in the relevant market area. Include an analysis of judicial and administrative data regarding allegations of disparate treatment of contractors, distributors, consultants, and vendors.
- ♦ Determine through anecdotal activities and to what extent, evidence exists that the City or their contractors engaged in unlawful discriminatory practices during the study period.
- ♦ Document all evidence or lack of evidence found.

#### ACTIVITIES

- 11.1 Schedule and conduct 35 in-depth interviews with area businesses to seek information on the history of D/M/WBE utilization, discrimination faced, and impediments to D/M/WBE participation in procurement and contracting.
- 11.2 Schedule and hold discussions with five area stakeholders, e.g., trade associations and business organizations that provide professional development for D/M/WBE firms.
- 11.3 Conduct two public hearings. The public hearings will provide the business community the study objects, task, and timelines, and will collect testimony from business owners regarding their experiences in doing business with or attempting to business with the City.
- 11.4 Prepare draft report of anecdotal data analysis.
- 11.5 Review draft report with the City Project Manager and make appropriate revisions.
- 11.6 Submit final report of anecdotal data analysis.

#### DELIVERABLE

- ♦ Report that identifies, from personal interviews, testimonies, and evidence (or lack thereof) of discriminatory patterns or practices by the City or their primes during the study period.

#### Survey of Vendors

To gather both business and demographic information from D/M/WBE and non-D/M/WBE firms in the market area, MGT will conduct a survey of vendors. A questionnaire will be designed and tailored based on the results of the disparity analysis which will shape many of the questions, how the questions are asked, and who we ask the questions

A questionnaire will be designed to gather both business and demographic information from D/M/WBEs and non-D/M/WBEs. The questionnaires will address business capacity, financing, bonding, insurance,

discriminatory experiences (public and private), and other variables necessary to evaluate D/M/WBEs' and non-D/M/WBEs' ability to do business with the City. The survey of vendors will be conducted with a stratified random sample of businesses by D/M/WBE and non-D/M/WBE groups included in the Master Anecdotal Database, which consists of firms included in the Master Availability Database. If the data permit, the samples drawn will provide a 95 percent confidence level by each disaggregated group. The survey results will provide much of the data required for the regression, probability, and other statistical analyses. The survey results may be used to adjust the utilization and availability.

In addition, the survey of vendors will serve to collect information relevant to the anecdotal evidence on D/M/WBE and non-D/M/WBE experiences in dealing with the City and its employees and prime contractors as well as with the private sector. We will address business capacity, financing, bonding, insurance, and other potential barriers to the establishment and growth of businesses. The responses of D/M/WBEs and non-D/M/WBEs will be compared to determine if barriers exist for minorities and women that do not exist for non-minorities. D/M/WBEs will be asked for specific instances of discrimination they have faced as minority business owners.

#### OBJECTIVES

- ♦ Obtain business and demographic information from available vendors by D/M/WBE and non-D/M/WBE groups and each procurement category.
- ♦ Gather additional factual predicate information on barriers, if any, faced by D/M/WBE firms working with the agency, prime, and in the private sector.
- ♦ Obtain data concerning D/M/WBE and non-D/M/WBE access to credit and capital needed to do business with the City.

#### ACTIVITIES

11.7 Design survey questionnaires. The surveys will obtain questions on the following subjects:

- Utilization in the private and public sectors.
- Type of services provided.
- Capability and capacity limitations.
- Financing, insurance, and bonding.
- Size of firm.
- Subcontracting.
- Business growth.
- Ownership structure.
- Race, D/M/WBE identity, and gender of owner(s).
- Private business experiences.
- Annual revenue by source categories.

11.8 Review questionnaire with the City Project Manager and make appropriate revisions.

11.9 Draw a stratified random sample of firms from the Master Anecdotal Database.

11.10 Conduct survey of business owners.

- 11.11 Track the responses, over the agreed-upon time period, in an attempt to collect a statistically valid number of completed surveys with a 95 percent confidence level with a +/- 5 percent margin of error and a final edited questionnaire response data file.
- 11.12 Analyze responses by D/M/WBE group, procurement category, firm size, and other variables. Use cross-tabs to analyze differing responses according to demographic characteristics.
- 11.13 Test for statistically significant differences in response rates.
- 11.14 Produce report of findings from survey or vendors.

#### DELIVERABLE

- ♦ A report describing the survey of a statistically reliable sample of available contractors, subcontractors, and vendors.

#### MILESTONES

- ♦ Design and finalize survey questionnaire.
- ♦ Conduct surveys.
- ♦ Analyze surveys

### TASK 12.0: CONDUCT PRIVATE SECTOR ANALYSIS

#### OBJECTIVE

- ♦ Determine if major disparity exists between race and gender of firm owners in the private marketplace that affects the ability of firms to win agency contracts.

#### ACTIVITIES

- 12.1 Gather from census, building permits, or other appropriate source(s), data on firms and their revenues from public and private sources that coincide with the types of construction purchased by the City.
- 12.2 Determine what other public sector entities and major private sector companies have D/M/WBE programs. Identify contact persons at those entities and have the City request information from these entities on their utilization of D/M/WBE.
- 12.3 Analyze D/M/WBE utilization in a statistically valid sample of private sector projects based on vendor lists associated with the City, private firms, and other public sector entities.
- 12.4 Calculate disparity indices based on utilization and availability estimates for the City, private firms, and other public sector entities (taking into account NIGP codes).
- 12.5 Prepare a report describing findings on D/M/WBE utilization in the private sector and review with the City Project Manager.

#### DELIVERABLE

- ♦ Private sector utilization report.



## TASK 13.0: CONDUCT REGRESSION ANALYSIS

### OBJECTIVES

- ♦ Conduct an econometric analysis to determine the relationships between D/M/WBE and non-D/M/WBE factors in explaining the levels of disparity among firms by D/M/WBE category and the impact of D/M/WBE on firm earnings.
- ♦ Conduct econometric analyses to examine the relationships between D/M/WBE and non-D/M/WBE firms that are doing business in the private sector.

### ACTIVITIES

- 13.1 Review data from the survey of firms ready, willing, and able to do business with the City.
- 13.2 Identify model(s) to be tested through multivariate and logit regression and other econometric techniques.
- 13.3 Conduct preliminary runs and identify final models. Describe the methods and procedures used to sample and collect all original data, and document sources of all data included in the regression analyses for inclusion in report.
- 13.4 Illustrate the regression models under investigation, including data elements dependent and independent as well as constant.
- 13.5 Describe the implications of the results on the D/M/WBE program and its participants.
- 13.6 Present the findings to the City Project Manager.

### DELIVERABLE

- ♦ A report of the findings and outcomes of the econometric analysis in terms of the contribution that each independent or explanatory variable in the model makes towards explaining differences or variation in the dependent variable.

## TASK 14.0: REVIEW EFFECTIVENESS OF RACE- AND GENDER-NEUTRAL REMEDIES

### OBJECTIVES

- ♦ Identify race- and gender-neutral remedies to ameliorate identified disparities.
- ♦ Evaluate the effectiveness of race- or gender-neutral remedies to rectify identified disparities.

### ACTIVITIES

- 14.1 Collect data and create tables on D/M/WBE participation in other major race- and gender-neutral business development programs operated by other entities within the relevant market area.
- 14.2 Conduct key informant interviews.
- 14.3 Prepare draft report on race- and gender-neutral programs.

## DELIVERABLE

- ♦ Report identifying the outcome of race- and gender-neutral remedies during the study period.

**TASK 15.0: "BUT FOR" DISCRIMINATION ANALYSIS**

As part of the private sector analysis, MGT will provide a statistical analysis of disparities in entry into and earnings from construction self-employment using data from the Public Use Micro Sample (PUMS) from the U.S. Census Bureau. MGT will present results from a logit<sup>[1]</sup> model to estimate self-employment disparities for minorities and women, controlling for education, age, wealth, and other relevant variables. MGT will decompose disparities in self-employment into a portion attributable to discrimination.

**Disparities in Credit Markets.** MGT will produce a credit market analysis relevant to the analysis of private sector discrimination. The credit market analysis will rely on direct evidence from the survey of vendors for the City's vendors on disparities, if any, in denial rates for credit, bonding, and insurance, controlling for firm characteristics.

## OBJECTIVES

- ♦ Analyze whether the availability of D/M/WBE firms has been impacted by discrimination.
- ♦ Provide a regression, probability, and other statistical analyses.

## ACTIVITIES

- 15.1 Conduct logit analysis of disparities in entry into self-employment using PUMS data.
- 15.2 Conduct logit analysis of disparities revenue from self-employment using PUMS data.
- 15.3 Prepare a report describing findings on D/M/WBE availability and utilization and review with the Project Officer.

## DELIVERABLE

- ♦ Non-goal analysis.
- ♦ Report identifying the outcome of race- and gender-neutral remedies during the study period.

**TASK 16.0: RECOMMENDATIONS**

## OBJECTIVES

- ♦ Identify race- and gender-related remedies to ameliorate identified disparities.
- ♦ Identify specific statistically significant disparities for which race- or gender-neutral remedies will not correct.

<sup>[1]</sup> Logistical regression, or logit, is one of two multivariate regression techniques employed to address the effects of discrimination on self-employment and self-employment earnings.

- ♦ Identify narrowly tailored race- and gender-based remedies needed to correct patterns or practices that race- and gender-neutral remedies will not correct.

#### ACTIVITIES

- 16.1 Utilizing the results of the utilization, availability, and disparity analyses identify race- and gender-neutral remedies to ameliorate disparity.
- 16.2 Identify problem areas, if any, where race- and gender-neutral remedies will not correct the problem.
- 16.3 For each problem area (or groups of areas) identify narrowly tailored race- and gender-based remedies.
- 16.4 Develop alternative solutions and recommendations for the City to consider for modifying its contracting practices in the procurement of construction (horizontal and vertical), professional services, other services, and commodities to ensure constitutionality and effectiveness.
- 16.5 Provide recommendations on program structure, aspirational goals, outreach, monitoring, penalties for non-compliance, etc.
- 16.6 Review draft report on recommendations with the City Project Manager and make appropriate revisions.
- 16.7 Submit final report of recommendations.

#### DELIVERABLES

- ♦ Report identifying race- and gender-neutral remedies to ameliorate disparities, if any.
- ♦ Report identifying problem areas, if any, that race- and gender-neutral remedies will not correct and that identifies needed narrowly tailored race- and gender-based remedies.
- ♦ Report identifying problem areas, if any, in which race- and gender-specific remedies may be subject to legal challenge and which identify narrowly tailored alternatives.

### TASK 17.0 PREPARE AND PRESENT FINAL REPORTS

At the conclusion of all reviews of the draft report, MGT will combine all comments and edits and organize them into a well-organized complete final report, which includes an Executive Summary.

#### OBJECTIVES

- ♦ Prepare a final report that incorporates the findings and conclusions from all project work tasks.
- ♦ Prepare a succinct Executive Summary.
- ♦ Meet with City representatives to answer questions regarding the final Disparity Study report.
- ♦ Prepare an oral presentation outlining the study and its findings.

#### ACTIVITIES

- 17.1 Develop comprehensive final disparity study report.
- 17.2 Submit to the City one unbound hardcopy and six bound copies of the report.

- 17.3 Submit to the City one photo-ready hard copy and one electronic copy in “.pdf” format of the final reports.
- 17.4 Deliver copies of all computer-based databases developed in the course of the study in Microsoft Access on CD accessible by Microsoft Windows. The databases can be used for further analysis and updating by the City.
- 17.5 Within one month following the completion of the Disparity Study report, provide formal presentation(s) to the City.

#### DELIVERABLES

- ♦ A comprehensive final report that incorporates the results and findings into a well-organized, written report. The report will include a succinct Executive Summary that may be easily referenced and used.
- ♦ Copies of computerized databases developed during the study.
- ♦ Two oral presentations or workshops of the report and its findings, conclusions, and recommendations.

#### ASSUMPTIONS

The work plan and budget for this proposal were developed with several key assumptions about the project. Changes to these assumptions may impact both our methodology and project costs. We welcome the opportunity to meet with the City Project Manager to review these assumptions, validate or adjust these assumptions based on more complete information, and adjust the work plan and/or budget accordingly. Below, we present our assumptions:

#### GENERAL

1. Some tasks will be conducted concurrently, when possible.
2. There will be designated senior staff at the City and MGT to resolve any conflicts that arise.
3. All products from this study (e.g., survey instruments, study database, notes, work papers, etc.) will become the property of the City.
4. MGT expects to have complete and timely access to necessary documents and personnel.
5. MGT assumes the project management tools, cost accounting, and time keeping systems selected for this project will be common off-the-shelf software packages that do not require significant specialized knowledge of the software. More sophisticated applications may require more effort to implement and/or the assistance of a qualified vendor representative.
6. The report will make recommendations to the extent possible; some findings will not result in recommendations.
7. The City has the right to review and reject any MGT personnel proposed for or assigned to this engagement.
8. MGT is willing to negotiate adjustments in the proposed cost should the City and MGT mutually agree upon reduction or increases to the scope of the project.
9. MGT will have access to and cooperation and participation by staff and management.

10. MGT will receive all requested electronic data either in Microsoft Excel, Access, comma delimited file, or any combination thereof.

#### **CITY PROJECT MANAGER**

11. The City will assign its own Project Manager to this engagement. This person will function as the single point of contact for the project, and coordinate and facilitate the flow of information and communication between MGT and project stakeholders. As well, this person has the authority to make decisions on a daily basis in the management of this engagement.
12. The City Project Manager will ensure comments on the draft reports from select project stakeholders are consolidated into a single document for each entity, and any conflicting comments are reconciled before delivering the comments to MGT.

#### **MEETINGS**

13. MGT will meet with City personnel quarterly to review and discuss the study's progress, activities pending, etc.
14. MGT will conduct the project kick-off and status meetings at a location specified by the City.

#### **PUBLIC MEETINGS**

15. The City will pay for the creation and posting of notices of public meetings related to this work.
16. The City will reproduce materials for public participation meetings at its own expense.
17. The City Project Officer will arrange for MGT to utilize public space for all community-input events at no cost to MGT.
18. There will be two public meetings held. Locations will be determined in consultation with the City. Additional meetings will be performed as requested, and compensated on a time and material basis.
19. MGT will provide a specified number of copies of all documents for the public meetings.
20. The City will manage the distribution of invitations for the public meetings.
21. MGT or designated subconsultant will go to the location one day in advance of the public meetings to ensure the facilities are adequate.

#### **STATUS REPORTS**

22. MGT will provide monthly project status reports on study activities, action items, timeline, and unresolved issues with regard to how MGT's work is progressing.
23. MGT will provide a report at the completion of the preliminary utilization, availability, and disparity analyses.

#### **DRAFT/FINAL REPORTS**

24. MGT will make two presentations of the final report. Additional presentations will be performed as requested, and compensated on a time and material basis.
25. MGT will provide the specified number of hard copies of the draft and final reports as well as electronic copy of the final report as outlined in the work plan.

26. The City will provide a formal consolidated set of written response/comments to the draft report within two weeks of receiving it from MGT.

#### **TERMS**

27. The terms and conditions in this proposal are valid throughout the duration of the contract. Should MGT be awarded the contract, MGT and the City must mutually agree upon the final provisions of the contract, which may include revisions to the contract terms.

#### **PERSONNEL IN SOUTH FLORIDA**

MGT's subcontractor, Garth Solutions, Inc., is located in Miramar and able to respond to emergency calls as required.

## MILESTONE PAYMENT SCHEDULE

Below is the Milestone Payment Schedule for the City's Disparity Study Contract.

### MILESTONE PAYMENT SCHEDULE

Milestone		Cost
1.0	Project Management Objectives	\$23,860
2.0	Initiate and Finalize Work Plan	\$12,330
3.0	Conduct Detailed Legal Review	\$1,180
4.0	Review Policy, Procedures, and Programs	\$5,730
5.0	Conduct Data Evaluation	\$5,580
6.0	Determine Product Market	\$24,330
7.0	Determine Relevant Geographic Market	\$5,510
8.0	Estimation of D/M/WBE Availability	\$15,380
9.0	Conduct Utilization Analysis	\$14,035
10.0	Conduct Disparity Analysis	\$6,570
11.0	Collect and Analyze Anecdotal Information	\$44,770
12.0	Conduct Private Sector Analysis	\$6,310
13.0	Conduct Regression Analysis	\$2,880
14.0	Review Effectiveness of Race-and Gender-Neutral Remedies	\$1,580
15.0	"But For" Discrimination Analysis	\$2,710
16.0	Recommendations	\$2,330
17.0	Prepare and Present Final Report	\$14,915
TOTAL		\$190,000

**AMENDMENT No. 1 TO THE  
DISPARITY STUDY CONSULTING SERVICES WITH  
MGT of AMERICA, INC.**

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the Terms and Conditions of the Disparity Study Consulting Services agreement are modified as follows:

**SECTION 16  
PUBLIC RECORDS**

- A. Public Records: CONTRACTOR shall comply with The Florida Public Records Act as follows:
1. Keep and maintain public records that ordinarily and necessarily would be required by CITY in order to perform the service.
  2. Upon request by CITY's records custodian, provide CITY with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
  3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement.
  4. Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of CONTRACTOR shall be delivered by CONTRACTOR to CITY, at no cost to CITY, within seven days. All records stored electronically by CONTRACTOR shall be delivered to CITY in a format that is compatible with CITY's information technology systems. Once the public records have been delivered to CITY upon completion or termination of this Agreement, CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
  5. CONTRACTOR'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the CITY.

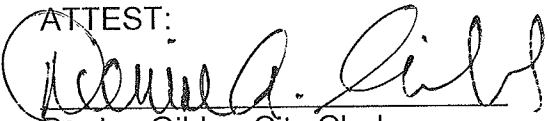
**IF CONTRACTOR HAS QUESTIONS REGARDING THE  
APPLICATION OF CHAPTER 119, FLORIDA  
STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE  
PUBLIC RECORDS RELATING TO THIS AGREEMENT,  
CONTACT THE CUSTODIAN OF PUBLIC RECORDS**



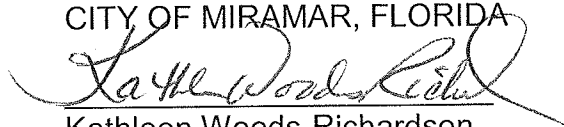
AT 954-602-3011, [dagibbs@miramarfl.gov](mailto:dagibbs@miramarfl.gov) OR BY  
MAIL: City Of Miramar – City Clerk's Office, 2300 Civic  
Center Place, Miramar, FL 33025.

- B. Ownership of Documents: Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.

ATTEST:

  
Denise Gibbs, City Clerk

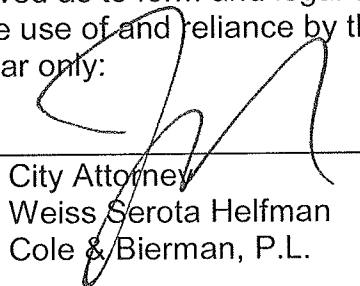
CITY OF MIRAMAR, FLORIDA

  
Kathleen Woods-Richardson,  
RC City Manager

10 day of October, 2016

Approved as to form and legal sufficiency  
for the use of and reliance by the City of  
Miramar only:

By:

  
City Attorney  
Weiss Serota Helfman  
Cole & Bierman, P.L.

ECG

CONTRACTOR: MGT of AMERICA, INC.

By:

  
  
Fred Seamon Vice President  
PRINT NAME AND TITLE

Date:

9/9/16