

**OFFICE OF THE CITY COUNCIL**

**RESEARCH DIVISION**

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JACKSONVILLE, FLORIDA 32202

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**JACKSONVILLE SMALL AND EMERGING BUSINESS SPECIAL COMMITTEE**

**Virtual meeting minutes**

 **October 23, 2020**

**10:30 a.m.**

**Location:** Virtual meeting via Zoom – no physical location

**In attendance:** Council Members Ju’Coby Pittman (Chair), Terrance Freeman, Garrett Dennis

**Also**: Jeff Clements and Yvonne Mitchell – Council Research Division; Lawsikia Hodges and Julie Davis – Office of General Counsel; Steve Cassada, Eric Grantham, and Melanie Wilkes – Council Staff Services; Tommy Carter – Council Auditor’s Office; Greg Pease and Rose Nettles – Procurement Division; Tom Daly – Housing and Community Development Division

**Meeting Convened**: 10:30 a.m.

Call to Order/Remarks from the Chair

Council Member Ju’Coby Pittman convened the meeting and welcomed the attendees. She is excited to hear today’s speakers from Mason Tillman Associates in Oakland, California on the subject of disparity studies. She gave a brief overview of the special committee’s charge and its work to date for the benefit of new attendees. Council Members Freeman and Dennis expressed their pleasure with the work of the special committee to date.

Approval of October 9, 2020 JSEB Special Committee meeting minutes

The minutes for the October 9, 2020 JSEB Special Committee meeting were **approved by unanimous consent**.

PresentationGreg Pease, Chief of Procurement, introduced the presenter from Mason Tillman Associates, Eleanor Ramsey, Ph.D., to make a presentation on the 2013 Jacksonville Multi-Jurisdictional Disparity Study.

Dr. Ramsey introduced her company and its years of experience in performing disparity studies, several of which have been reviewed and found to be sound and defensible by courts in legal challenges to procurement programs across the country. She described the disparity study the company performed for Jacksonville a decade ago. That study found no disparity for any groups in informal construction contracts of under $200,000 or in formal contracts under $500,000 for the period studied. Professional services contracts were too few on which to perform an analysis because of data problems. With regard to goods and services contracts there were identified disparities for African Americans, Asian Americans and Hispanic companies in several categories of formal and informal procurements. Several disparities were also identified in the subcontracting area in several categories. Anecdotal findings from minority- and women-owned businesses bolstered the findings of the contract analyses. Prime contractor pre-qualification requirements were felt to be exclusionary, bonding requirements were a barrier, prime contractor bid shopping was problematic, and late payments from prime contractors to M/WBEs made success very difficult for those companies. The report made some race- and gender-based recommendations to help reduce the disparities, including creating a small contracts rotation program and tracking the success of prime contractors in meeting the City’s contracting goals. A quantified Good Faith Effort Criteria system was recommended, and goal attainment at the time of contract review and award rather than at the end of the contract was recommended. Pre- and post-award procurement strategies were recommended and have been implemented, including direct contract awards to small prime contractors, revised insurance requirements, phased retainage requirements, creation of a virtual plan room, development of formal dispute resolution standards, mobilization pay to subcontractors, a payment verification program, and others. Vigilance by the City over ensuring the selection, use and payment to subcontractors is vital to the success of the program.

Dr. Ramsey discussed the current state of legal precedents with regard to disparity studies. The underlying requirements to justify race or gender-based procurement programs include: 1) compelling governmental interest in remedying identified disparities, 2) narrowly tailored remedies to deal with those disparities, and 3) periodic update of the program based on assessment of the effectiveness of the remedies (every 5 to 10 years). She described the factors to be considered in legally defensible disparity study methodologies – contractor utilization analysis by market area, availability analysis of willing and able companies in the market, determination of business capacity to perform, statistical tests of disparity (parity determination), collection and analysis of anecdotal evidence (identifying patterns and practices). Dr. Ramsey provided cost estimates for the various phases of a disparity study for Jacksonville - $75,000 for a utilization analysis, $150, 000 for a disparity analysis, and $350,000 for a full disparity study. She noted that various aspects of the study process can be used to help determine how the targeted businesses view the City’s procurement process and what improvements could be made to make them more successful, how they are coping with the current COVID pandemic, how small businesses could better communicate among themselves, etc.

Council Member Dennis said that as a contactor he sees first-hand the disparities and challenges that exist in Jacksonville. In response to a question, Dr. Ramsey clarified that the City’ previous study would need to be completely re-done to address the fact that the data from the previous study is now so old as to be unusable. The most recent 5 years of data need to be analyzed for contract awards and market availability of willing an able companies.

**Motion** (Dennis): request the Procurement Division to look for available funds to put toward the cost of performing a full procurement disparity study and report back to the special committee -

Council Member Freeman said that businesses are struggling now and something needs to be done to help them immediately, especially given the upcoming development proposed for Jacksonville in the next few years (Lot J, The District, etc.) that should be a great opportunity for small businesses. Many businesses can’t afford to wait for a one year disparity study and then another year to craft revisions to the program before anything changes they will be missing out on immediate opportunities.

In response to an earlier comment, Deputy General Counsel Lawsikia Hodges said that Council Member Dennis’ recent ordinance 2020-311 provided for a goal, not a mandate, of 20% JSEB participation in City contracting opportunities.

Public participation

Greg Pease said it would be appropriate for Mason Tillman to perform the study given its familiarity with Jacksonville from prior work. He asked Dr. Ramsey if the rates she quoted in her presentation would be more expensive if the study had to be done without their prior work in Jacksonville. She said that it would cost about $500,000 rather than the $350,000 she cited earlier to do a full disparity study completely from scratch.

Deborah Thompson of the First Coast African American Chamber of Commerce said she understood that the JSEB budget has been under-spent in recent years and suggested finding out where that money went and possibly use it for this. She thinks the JSEB program should be a full division of City government and not subject to being discontinued at the discretion of a mayor. She recommends unbundling contracts into smaller units to make them more accessible to small bidders. There should be a tiered system of contracts that doesn’t penalize more successful JSEB companies by making them compete with larger local and out-of-town companies for bigger contacts. Jacksonville has been unsuccessful over the years in developing minority owned businesses that can function as prime contractors on big jobs.

Council Member Freeman asked for clarification about the “stale data” mentioned earlier. Dr. Ramsey said that the City’s contracting data needs to be updated to an analysis of the last 5 years, but there is some information from the previous disparity study (company identities, ethnic and gender verification o business owners, etc.) that can be re-used at a cost savings from having to collect it all from scratch.

**The Dennis motion was approved 3-0.**

Public Comment

None

**Meeting adjourned:** 12:00 p.m.

Minutes: Jeff Clements, Research Division

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10.23.20 Posted 1:30 p.m.