



Administrative Services Committee Committee Room- 8/27/2007- 12:45 PM Meeting

ADMINISTRATIVE SERVICES

1. Receive as information the EEO Policies and Procedures. ☐ [Attachments](#)
2. Approve repeal of Disadvantaged Business Ordinance and enactment of Local Small Business Opportunities Program Ordinance. ☐ [Attachments](#)
3. Discussion of the reprogramming of \$615,273.93 in CDBG Funds and changing the Scope of Work for the McDuffie Woods Community Center Year 2007 CDBG Project (a non-action agenda item). ☐ [Attachments](#)
4. Presentation by Mr. Stanley Brown regarding improper administrative actions in the Recreation Department. ☐ [Attachments](#)

www.augustaga.gov



**Administrative Services Committee Meeting
8/27/2007 12:45 PM
EEO Policies and Procedures**

Department: Equal Employment Opportunity Office (EEO)

Caption: Receive as information the EEO Policies and Procedures.

Background: The purpose of this policy is to promote employment diversity and equality within the Augusta-Richmond County consolidated government. This policy is also intended to provide uniformity in the processing of Equal Employment Opportunity (EEO) complaints.

Analysis: NONE

Financial Impact: NONE

Alternatives: Do not accept

Recommendation: Receive as information

Funds are Available in the Following Accounts: NONE

REVIEWED AND APPROVED BY:

**Finance.
Administrator.
Clerk of Commission**

Augusta-Richmond County Equal Employment Opportunity (EEO) Office EEO Policies and Procedures	Last Revision Date: July 31, 2007
--	--

Section A

A.1: Purpose and Scope

The purpose of this policy is to promote employment diversity and equality within the Augusta-Richmond County consolidated government. This policy is also intended to provide uniformity in the processing of Equal Employment Opportunity (EEO) complaints. These policies and procedures exclusively apply to EEO-related issues in connection with employees (classified and non-classified), contractors and agents of the Augusta-Richmond County consolidated government operating under the authority of the Mayor and the Augusta-Richmond County Commission. In addition, these EEO policies and procedures are only intended to address employment discrimination concerns which relate to race, color, sex, pregnancy status, marital status, national origin, age, religion, disability or veteran's status. Elected officials are exempt from this policy unless pursuant to state law, they have elected to be included in the Augusta-Richmond County Civil Service System.

Section B

B.1: Augusta-Richmond County EEO Statement

Augusta-Richmond County provides equal employment opportunity to all qualified employees and applicants for employment and does not discriminate on any basis prohibited by law, including without limitation: race, color, sex, pregnancy status, marital status, national origin, age, religion, disability and veteran's status. Augusta-Richmond County is committed to preventing discrimination in the work place. Therefore, it is the policy of the Augusta-Richmond County not to tolerate illegal discrimination. Providing Equal Employment Opportunities is a system-wide effort and the responsibility of all employees, the EEO Office, Department Heads, Directors and the City Administrator.

Section C

EEO Office Areas of Oversight and Jurisdiction

C.1: The Augusta-Richmond County EEO Office oversees issues relating to:

Title VII of the Civil Rights Act of 1964, as amended

The Equal Pay Act of 1963 (EPA), as amended

The Age Discrimination in Employment Act of 1967 (ADEA), as amended

Pregnancy Discrimination

The Americans with Disabilities Act of 1990 (ADA), as amended and accommodations

The Civil Rights Act of 1991, as amended

Section 504 of the Rehabilitation Act of 1973, as amended

Individual Augusta-Richmond County Title VII or ADA discrimination complaints

Departmental or systemic Title VII inquiries, complaints, concerns and/or investigations

General EEO issues; diversity affairs

Responding to federal EEOC complaints and cases

EEO-related case investigations and resolutions

EEO-related consultation, training and outreach
EEO-related employee demographic information
Organizational EEO Plans

C.2: EEO Philosophy

Bridge-building • Diversity • Mediation • Collaboration • Education

C.3: Motto

“Building Bridges for Diversity”

C.4: EEO Mission

- Establishing and maintaining a diverse and representative workforce for Augusta-Richmond County by removing barriers and maximizing both individual and collective potential.
- Ensuring Augusta-Richmond County Government organizational compliance with governing EEO statutes and regulations.
- Promoting equal employment opportunity in the Augusta-Richmond County Government workforce by enforcing EEO guidelines and laws which prohibit employment discrimination.
- Promoting a positive organizational understanding and awareness of cultural diversity within the Augusta-Richmond County workforce.

C.5: Implementing The Mission

The EEO Office will implement its mission through:

- (A) Assisting employees and management in relation to EEO compliance.
- (B) Conducting diversity outreach and bridge building to promote an appreciation of multiculturalism.
- (C) Providing EEO oversight and feedback during the hiring process of organizational Directors and managers.
- (D) Maintaining federally mandated reporting of workplace EEO demographics.
- (E) Responding to federal EEOC Complaints and other EEO-related inquiries.
- (F) Working to promote accommodations and equal access for people with disabilities as required under the ADA.
- (G) Independently and directly reviewing Augusta-Richmond County EEO data and testing results generated by vendors.

- (H) Advising departments to maintain internal EEO data directly related to their specific department, as needed.
- (I) Investigating Title VII and ADA employment discrimination complaints.
- (J) Utilizing Augusta-Richmond County workforce diversity in a positive manner.
- (K) Initiating independent EEO inquiries of departments that reflect the need for systemic changes in order to promote Equal Employment.
- (L) Providing training and consulting to employees and supervisors in the areas of equal employment opportunity and workplace diversity.
- (M) Overseeing hiring processes to ensure equal opportunities and compliance with EEO standards.
- (N) Conducting multicultural recruitment initiatives to promote a diverse applicant pool of qualified candidates, as needed.

C.6 (a): EEO Office Overview

The official organizational name of Equal Employment Opportunity/ Equal Opportunity Office or a similar phrased name shall be exclusively designated to this specific office.

The EEO Office will collaborate with employees, managers, vendors, and various departments to promote EEO compliance, systemic inclusion and diversity. The EEO Office will assess departments to ensure inclusion and equal opportunities. In addition, the EEO Office will promote the expansion of organizational diversity in relation to race, color, sex, pregnancy status, marital status, national origin, age, religion, disability and veteran's status.

The EEO Office may intervene in organizational matters which directly connect to EEO laws and the expansion of diversity. In addition, the office may become involved in matters relating to organizational diversity, respond to inquiries by the Augusta-Richmond County Commission and serve as a consultant to the Commission. The EEO Office may conduct individual, departmental or systemic inquiries in relation to Title VII of the Civil Rights of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990 and other applicable laws and regulations. The EEO Office may also make recommendations for changes.

C.6 (b): EEO Demographic Collection and Access

EEO-related demographic data collection is essential to the organization and the mandate of the Augusta-Richmond County EEO Office to provide Federal Government reporting data, agency profiles and the analysis of departmental and organizational progress. In certain matters, the EEO Office should independently access all EEO-related data in relation to the organization directly from internal departments, vendors and testing companies when such data contains EEO-related information in relation to Augusta-Richmond County. Therefore, Departments,

managers, offices and vendors shall allow the EEO Office to obtain and maintain direct departmental and vendor access to all EEO-related information, statistics and testing data including without limitation applicant pool and departmental demographic data. The EEO Office may require segments of information and/or past data. Requested information may not necessarily be related to certain minority groups or protected classes of individuals; the EEO Office is authorized to request and receive information pertaining to various groups including non-protected categories in order to facilitate investigations, inquiries and disparagement comparisons. Requested information should be released as soon as it is generated by the department or agency, but no less than three working days after the request is issued by the EEO Office. Volume data relating to more than two employees should contain the race and sex of each employee listed. Each department shall establish EEO-data access for the internal EEO Office by issuing initial release forms to vendors or creating direct access at the request of the EEO Office.

C.7: Assessing Educational Credentials

In reviewing and comparing educational credentials for applicants and internal employees, the Augusta-Richmond County EEO Office has adopted guidelines from the U.S. Government and recognizes degrees from schools that have received accreditation from an accrediting body which has been approved by the U.S. Department of Education [(USDE) www.ed.gov], the Council for Higher Education, the American Council on Education [(ACE) www.acenet.edu], or the Association of Specialized and Professional Accreditors [(ASPA) www.aspa-usa.org]. All accrediting agencies—regional, national, and specialized—that are recognized by the USDE as reliable authorities regarding the quality of the programs and schools they accredit are listed on the USDE website at: <http://www.ed.gov/admins/finaid/accred/index.html>. The central accrediting body for many of the degree-granting institutions of higher education in Georgia is the Southern Association of Colleges and Schools (SACS), www.sacs.org.

Section D

Grievance Issues

D.1: Internal Augusta-Richmond County EEO grievable issues include:

1. Allegations of unlawful discrimination based on race, color, sex, pregnancy status, marital status, national origin, disability, religion, veteran's status or EEO-related retaliation.
2. Allegations of sexual harassment as defined under the EEOC Guidelines; and
3. Allegations of retaliation for asserting Title VII or ADA protected rights.

D.2: This Internal Augusta-Richmond County EEO Policy does not apply to:

1. General personnel matters and personality conflicts that the employee states or concedes are not based on race, color, sex, pregnancy status, marital status, national origin, disability, religion, veteran's status or EEO-related retaliation;

2. Issues or charges which are pending or have been concluded by the Federal Equal Employment Opportunity Commission (EEOC);
3. Issues or charges pending before any courts or informal mediation (not performed by the EEO Office);
4. Any adverse employment action that is not based on race, color, sex, pregnancy status, marital status, national origin, disability, age, religion, veteran's status or EEO-related retaliation including but not limited to termination, demotion, not being granted a job interview, denial of promotion, reassignment, department reorganizations, furlough, layoff from duties because of lack of work, or other action resulting from a reduction in the work force or job abolition;
5. Alleged policy violations that are not based on race, color, sex, pregnancy status, marital status, national origin, disability, age, religion, veteran's status or EEO-related retaliation, should first be referred to the Department Head for resolution. If matters remain unresolved, employees should then take their concerns to the Human Resources (HR) Department and follow the HR Grievance Procedures;
6. Internal EEO, Title VII or ADA occurrences, issues, charges, allegations, or concerns which occurred over one-hundred and eighty days ago;
7. Elected officials and their employees, offices, vendors, or contractors (unless elected officials have, in advance of an EEO-related incident relating to their area of control, submitted written and signed notice to have themselves and their employees offices, vendors or contractors include in the Augusta-Richmond County Civil Service System under HR Policies and Procedures);
8. Issues relating to organizations, business or companies outside of the Augusta-Richmond County consolidated government; and
9. Issues concerning persons not directly employed with the Augusta-Richmond County Government organization.

Section E

E.1: EEO Complaint Procedures

Employees or others interfacing with Augusta-Richmond County may consult with the Augusta-Richmond County EEO Office on an informal basis to receive information and consultation in relation to specific situations without filing a formal EEO complaint or grievance. In addition, employees may withdraw a formal EEO complaint and seek mediation or an informal resolution at any point in the process. A written letter is necessary to effectuate the withdrawal of an internal EEO complaint.

E.1 (a): Confidentiality

Managers and all involved parties are expected to maintain the confidentiality of employees and other individuals involved in the EEO complaint process. This includes confidentiality in relation to conversations, meetings, e-mails, written correspondence, final case-findings and resolutions. Confidentiality does not mean that the accused will not be informed of the pending charges as the accused will be allowed to respond to allegations made by the complainant.

Confidentiality will be kept as much as possible and to the extent that it does not impede the investigation or a directive from the Augusta-Richmond County Commission body. Management, Human Resources Management and in certain cases the Augusta-Richmond County Commission may be advised of an investigation, have access to case information and receive updates and/or final outcomes.

E.2: Management and Employee Cooperation (Case Resolution and Mediation)

E.2 (a) All managers and/or employees connected to Augusta-Richmond County are required: 1) to fully cooperate in EEO investigations, 2) not to withhold any information (written, e-mailed, or oral) connected to an EEO investigation, 3) to make themselves available for questioning within two working-days of a request for a meeting from the EEO Office (if this is not possible, an alternative date and time should be submitted in writing to the EEO Office) and 4) to provide truthful and accurate statements to the EEO Office.

E.2 (b): Once a formal written complaint has been filed the matter has gone past the level of informal resolution. At this stage employees should not attempt to resolve a formal EEO complaint on a one-on-one basis or confront an employee (either the complaining employee or the accused) in relation to an EEO case that is either open or closed.

E.2 (c): Supervisors should not: presume an employee (either the accused or the complaining) to be guilty of anything or institute disciplinary actions merely based on a pending EEO charge or case.

E.2 (d): Employees, managers, and administrators should follow the chain-of-command and procedures outlined in this policy in order to resolve any EEO-related concerns. Employees or managers with concerns must make direct contact with the Department Head or the EEO Office to resolve any EEO related matters. The Department Head or Director should forward concerns to the EEO Office.

E.3: Honesty Code

The complaining or charging party must sign a statement indicating that the allegations in the EEO complaint (either verbal or in writing) are honest, true, accurate and non-exaggerated. When issuing a statement or answering questions in connection with an EEO inquiry an employee must, to the best of their knowledge and belief, be truthful in all of their oral and written responses. Individuals (including complainants, accused parties, witnesses, information gathers, persons submitting data and others) who fail to cooperate with the EEO Office or who are found to have knowingly provided false information or altered written data in relation to an EEO inquiry or investigation will be subject to progressive disciplinary action as outlined in the Employee Handbook.

E.4: Employee Relocation In Connection With A Pending EEO Case

Except in extreme circumstances or cases involving physical safety concerns, managers and administrators should allow employees (both the complaining party and the accused) to remain situated in the same physical work location, job assignment and department during an EEO inquiry. Supervisors and/or administrators should attempt to exhaust all other remedies before resorting to relocating any employee in connection with a pending EEO case. In relation to the pending EEO complaint interim period, unless the threat of direct physical harm exist, neither the accused nor complaining employee should be relocated to another department, given alternative job assignments, or placed in another work location without a prior three days notice being sent to the employee and the EEO Office. In such cases, the relocated employee and the EEO Office should receive written notice of the move, the reason behind the relocation and the time duration of the relocation at least three days in advance. If an employee is involved in an EEO case (either as the accused, the complainant, a co-worker or a witness), the EEO Office is required to review any employment transfer, department change, physical office move, job reassignment or relocation to ensure that it does not appear to involve retaliation and then send written correspondence to the manager to indicate that the transfer was reviewed by the EEO Office. If an employee feels that a change is being made in retaliation for their involvement in an EEO case or disagrees with the relocation, the employee has a right to file an appeal with the EEO Office.

Relocated employees should be returned to their previous physical work location, job, and/or department within three days after a case is resolved. In cases where the employee will not be relocated back to their same work assignment or location, both the employee and the EEO Office should be notified in writing at least three days in advance of a reassignment. The reassignment or relocation letter should outline the details of why the changes are being made. In such cases, the employee who initially made the EEO complaint has a right to file an appeal with the EEO Office if the employee feels that the changes are being made in retaliation to filing an EEO claim.

E.5: Stage One (Informal Resolution)

Many EEO-related matters arise from misunderstandings and a lack of basic communication. The EEO Office encourages matters to be resolved at the lowest possible levels and at the earliest stage possible. When no written complaint has been submitted to the EEO Office or the Department, employees may collegially discuss the concerns directly with the individual or colleague involved in an attempt to clear up any possible miscommunications that may exist. In addition, employees are encouraged to utilize the process of informal mediation to resolve conflicts. The EEO Office may facilitate the process of informal mediation. Attempting to use informal methods of conflict resolution does not forfeit the employee's right to move forward at a later date (within one-hundred and eighty days of the last alleged act) with a formal written complaint if the matter is not resolved in an informal manner.

The EEO Office provides consultation to both employees and managers seeking approaches to resolve issues in an informal manner. Collaborative EEO resolutions at the lowest possible levels and the earliest time periods are strongly encouraged. The EEO Office promotes respectful communication as a viable option for settling disputes. Except

in cases involving allegations of sexual harassment, informal complainants may do the following to seek an informal resolution:

- 1) When no formal written complaint has been filed with the EEO Office, employees may first discuss the concerns directly with the individual or colleague involved in an attempt to clear up any possible misunderstandings;
- 2) If the matter is not resolved, then the employee should take the next step and discuss their concerns with their immediate supervisor and;
- 3) If the concern remains unresolved, the next step is to schedule an appointment to discuss the matter with the Department Head.

E.6: Stage Two (Informal Mediation)

If efforts toward an informal resolution are unsuccessful at Stage One (Informal Resolution), then a complainant is encouraged to contact the EEO Office to request assistance with negotiating or mediating the dispute prior to filing a formal EEO complaint. Employees may seek assistance from management and/or the EEO Office in order to schedule a mediation meeting to discuss issues which relate to an EEO case. The EEO Office will assist in working to bring about an equitable resolution for both parties through the process of informal mediation.

E.7: Stage Three (Formal Written Complaints)

If the informal resolution or mediation attempts between an employee, a manager or another entity do not result in a resolution to a complaint within twenty working days, the charging party then has the option to 1) drop the matter or 2) request that the internal EEO Office conduct a formal investigation. The request for a formal internal EEO investigation must be dated and issued in writing by the complaint within one-hundred and eighty working-days of the alleged act of improper conduct. The complainant is required to provide sufficient facts and data to substantiate discriminatory allegations. According to Augusta-Richmond County Policy, the EEO Office will investigate the complaint and attempt to conciliate the claim.

The charged party (one who is accused of a discriminatory act) will be allowed to review the written allegations and to provide a written response to the charges within seven days after the review. After reviewing the allegations, responses and evidence from both parties, the internal EEO Office will make a determination as to whether or not to proceed with further internal investigations, or refer the employee to the Federal EEOC Office

In cases where the EEO Office is moving forward with an internal EEO investigation witnesses, co-workers and management may be questioned. Both the accused and the complainant will have an opportunity to present their responses. An accused individual may have one person of their choice (non-legal) attend investigatory meetings.

Augusta-Richmond County employees formally being accused of an EEO violation in writing have a right to the following:

1. To not receive: an assumption of violation, disciplinary actions, reactionary job relocations, assignment changes, a demotion or a termination merely based on an initial EEO accusation and/or a written complaint that has not yet been investigated and had a case finding issued;
2. To see the actual written charges submitted in the complaint;
3. To have seven days from the date of receipt of the written charges, to submit a response to the EEO Office and have this data included as part of the case investigation; and
4. To receive the final case findings in writing and to have a date of final case closure.

EEO investigations are an internal-agency fact-finding process not a formal hearing or a court trial. Therefore, no part of the EEO inquiry may be recorded (by the accused, charging party, or third party witnesses) either by audio recording, transcription or any other form. The EEO Office maintains the right to keep the official record of all inquiry data. Except by court order, only the complete official case finding shall be released from the EEO Office. All related parties shall receive a complete version of the final case finding. Usually, complete case findings are issued within sixty days of the filing of a formal written complaint.

Cases not related to EEO, Title VII or the ADA will be referred to the Department Head and/or the Human Resources Department for resolution. In such cases, both the accused and the charging party will be notified in writing.

E.7(a): Submitting A Formal Complaint In Writing

Employees should file an EEO complaint directly to the Augusta-Richmond County internal EEO Office. If filed indirectly through Human Resources, an individual employee or another department, the individual receiving the EEO complaint should forwarded it to the EEO Office as soon as possible.

E.7 (b): Submitting A Formal Complaint Orally

Employees may also request to have a formal complaint issued orally and transcribed into written format by the EEO Office. An oral complaint must be transcribed into written format, signed and then submitted by the complaining employee. The employee is responsible for ensuring that their oral complaint is completed, signed, and submitted to the EEO Office within ten days after filing the oral complaint.

E.7 (c): Complaint Inquiries and Investigations

All EEO proceedings and investigations will be conducted under the direct management and direction of the EEO Office. Written notification of an EEO complaint will be sent to the charged employee and the employee's immediate supervisor or Department Head. The notification will occur within thirty working-days after a representative of the EEO Office and the complainant have signed an EEO Complaint Form. In cases where no individual supervisor can be identified, case results will be directed to the City Administrator.

E.7 (d): Complaint Resolution or Closure

The charging party, the accused, and the Department Head, Director or supervisor of the accused will be issued a letter of findings which may include recommendations from the EEO Office. Generally, the finding will be issued within thirty to sixty working-days after filing a complaint. However, in some cases, the EEO Office may extend the investigation time period. If the period of investigation is extended, all parties will be provided with written notification of the new deadline to complete the investigation. During the investigation period, ongoing mediation and support services may be provided by the EEO Office. Following each investigation, the EEO Office may elect to forward additional recommendations to the Department, the City Administrator and/or the Augusta-Richmond County Commission for consideration. Recommendations to the Commission and/or the City Administrator will be made at the discretion of the EEO Office. A written letter of resolution will be issued by the EEO Office and sent to the complainant and the charged individual. In certain cases where the EEO Office deems that the accused may have more likely than not violated a Title VII or ADA statute or which may pose specialized concerns, the EEO Office may consult with legal counsel and/or seek a detailed legal case review in conjunction with the final internal EEO case finding.

E.8: Prohibition Against Retaliation In Relation To An EEO Case

Complainants, employees, management, participants, EEO Officials, and witnesses are protected against any form of organizational, administrative or management retaliation due to/or in any part based on participation in an EEO complaint, inquiry, mediation and/or investigation. A manager may not cause an adverse employment action or otherwise "retaliate" against an individual for engaging in protected conduct (filing a charge of discrimination or participating in a discrimination proceeding).

If a person believes they are being subjected to retaliation, they should notify the EEO Office in writing within ten working days of the date of the alleged retaliatory act. The written notice must outline in detail the allegations and dates of the specific retaliatory acts that the person believes are being done. Department managers and any other employees and officials found to have committed verifiable acts of retaliation against an individual in connection with an EEO case will be subjected to progressive discipline as outlined in the Employee Handbook.

While employees are protected from retaliation for filing EEO complaints, employees who knowingly file completely unsubstantiated or falsified EEO charges are subject to progressive disciplinary action as outline in the Employee Handbook.

Section F: Final Internal Case Closure and Appeal Rights

The issuance of a final written case finding from the Augusta-Richmond County EEO Office shall constitute the end of all Augusta-Richmond County discrimination inquiries, investigations and appeals from or on behalf of both the complaining party and the accused. Charging parties completing this level of appeal, who are still dissatisfied with the outcome, have a right to file a complaint with the Federal EEOC Office.

Section G: Overriding Policies

This policy updates and clarifies EEO-related systems, policies and procedures that were previously being conducted for Augusta-Richmond County. As to all matters that are not

EEO-related, HR Policies and Procedures and/or the applicable City Ordinance shall control. This policy supersedes any prior policies or procedures in connection with the Augusta-Richmond County EEO Office.



**Administrative Services Committee Meeting
8/27/2007 12:45 PM**

**Repeal of Disadvantaged Business Ordinance, enactment of Local Small Business Opportunities
Program Effective October 1, 2007**

Department: County Attorney

Caption: Approve repeal of Disadvantaged Business Ordinance and enactment of Local Small Business Opportunities Program Ordinance.

Background: In order to comply with the Judge Edenfield's Order, the office of the County Attorney and Attorney Rosalind Rubens Newell and her law firm of McKenna Long and Aldridge in Atlanta, Georgia, present a revised Local Small Business Opportunities Program effective October 1, 2007 which will replace the Augusta's Disadvantaged Business Program ordinance which was part of the Augusta-Richmond County Code. This is an interim step while the Disparity Study is being undertaken and achieved by NERA.

Analysis: See Background

Financial Impact: Not fully estimated at this time

Alternatives: N/A

Recommendation: Completely restate and replace DBE Ordinance with the attached Local Small Business Opportunities Business Opportunities Ordinance.

Funds are Available in the Following Accounts: The budget of the DBE office will be applied to the new program.

REVIEWED AND APPROVED BY:

**Administrator.
Clerk of Commission**

AN ORDINANCE TO REPEAL IN ITS ENTIRETY AUGUSTA'S DISADVANTAGED BUSINESS ENTERPRISE PROGRAM ORDINANCE, CODE SECTIONS 1-10-58 THROUGH 1-10-62, INCLUSIVE; TO PROVIDE FOR RACE AND GENDER NEUTRAL PROGRAMS TO INVOLVE LOCAL SMALL BUSINESS IN THE ECONOMIC ACTIVITY GENERATED BY AUGUSTA-RICHMOND COUNTY GOVERNMENT; TO PROVIDE FOR THE ADMINISTRATION OF A LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM; TO REPEAL LAWS AND ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

SECTION 1.

That Augusta-Richmond County's Disadvantaged Business Enterprise Program, Code of Ordinances Sections 1-10-58 through 1-10-62, inclusive, is repealed in its entirety.

SECTION 2.

The Augusta-Richmond County Commission does hereby ordain and establish a Local Small Business Opportunities Program effective October 1, 2007.

AUGUSTA, GEORGIA
AUGUSTA-RICHMOND COUNTY LOCAL SMALL BUSINESS
OPPORTUNITIES PROGRAM

Table of Contents

Local Small Business Opportunities Program -- General Principles	1
§ 1-10-58. SHORT TITLE	1
§ 1-10-59. OBJECTIVE	1
§ 1-10-60. POLICY	1
§ 1-10-61. DEFINITIONS	2
§ 1-10-62. APPLICATION; EFFECTIVE DATE	6
§ 1-10-63. PROGRAM ADMINISTRATION	6
A. SERVICES TO BE PROVIDED BY THE LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM (LSBOP)	6
B. PROGRAM	6
C. PROCUREMENT DEPARTMENT RESPONSIBILITIES	7
D. EVALUATION OF THE LOCAL SMALL BUSINESS OPPORTUNITY PROGRAM	8
§ 1-10-64. CERTIFICATION PROCEDURES	8
A. CERTIFICATION	8
B. RE-CERTIFICATION	9
C. LIMITATIONS	10
D. GRADUATION	11
§ 1-10-65. LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM PARTICIPATION	11
A. SEALED BIDS, SEALED PROPOSALS, PROFESSIONAL SERVICES AND OTHER MAJOR PURCHASING	11
B. DEPARTMENTAL PURCHASE REQUIREMENTS (SMALL PURCHASES, QUOTATIONS, OR INFORMAL BIDS)	13
C. PROCUREMENT DEPARTMENT BUYER'S RESPONSIBILITIES	13
D. MAINTENANCE OF RECORDS	13
E. COMPLIANCE	14
F. COMPETITIVE BIDS	15
G. OUTREACH	15
§ 1-10-66. EXCEPTIONS – FEDERALLY FUNDED PROJECTS	16

§ 1-10-67. CITIZENS ADVISORY COUNCIL	16
§ 1-10-8. COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS.....	16
§ 1-10-96. Authority to Suspend or Debar From Qualified Bidder /Proposer List.....	17
§ 1-10-97. Causes for Suspension and Debarment	17
§ 1-10-98. Decision to Suspend or Debar:	18
§ 1-10-99. Notice of Decision.....	18
Appendices	19

**AUGUSTA, GEORGIA
AUGUSTA-RICHMOND COUNTY LOCAL SMALL BUSINESS
OPPORTUNITIES PROGRAM**

GENERAL PRINCIPLES

§ 1-10-58. SHORT TITLE

This Ordinance and/or the codification hereof may be referred to as the “Augusta-Richmond County Local Small Business Opportunities Program Ordinance” (“LSBOP”).

§ 1-10-59. OBJECTIVE

Augusta-Richmond County is firmly committed to the principles of equal opportunity and in keeping with these principles, hereby sets forth a program and establishes a mechanism for developing, approving, and implementing procedures by which local small business enterprises shall be identified, informed and educated regarding opportunities for supplying goods, general services, and construction services required by Augusta-Richmond County, and providing for objectives for bidders to incorporate the use of Local Small Businesses as commercially useful sub-contractors, thereby promoting balanced economic and community growth throughout Augusta-Richmond County. The LSBOP is a race and gender-neutral program.

§ 1-10-60. POLICY

It is the policy of Augusta-Richmond County that all necessary and reasonable steps shall be taken to ensure that local small business enterprises have the maximum opportunity to compete for and participate in all contracts and subcontracts funded by or through Augusta-Richmond County government. Further, the Augusta-Richmond County Commission has determined as a means to ensure full economic participation by small local business that a mechanism for developing, approving and implementing a LSBOP is required.

Augusta-Richmond County has established the LSBOP to promote opportunities for certified Local Small Business to participate in Augusta-Richmond County’s contracting and procurement activities by requiring contractors to utilize certified Local Small Businesses to perform commercially useful functions to the maximum extent possible and as economically feasible, as partners or subcontractors for service delivery or as suppliers of various goods required in the performance of a contract. This LSBOP is in addition to and shall not supplant the Local Preference Ordinance, Code §1-10-6.

Augusta’s Local Small Business Opportunities Program shall comply with federal and state requirements applicable to small or disadvantaged business, including but not limited to those requirements set forth by regulation by the Federal Aviation Administration, U.S. Department of Housing & Urban Development, and Georgia Department of Transportation. It is expressly recognized that such federal and state regulations preempt Augusta’s regulations regarding this subject.

§ 1-10-61. DEFINITIONS

(a) *Generally.* Those definitions set forth in Chapter 10 of the Code of Ordinances shall also apply to this Article, except as provided in this section.

(b) *Specifically.*

Bidder – any person or entity that submits a bid to provide labor, goods or services to Augusta-Richmond County by contract in response to a bid or other solicitation by Augusta-Richmond County.

Certified Local Small Business – any business entity certified by the DBE Coordinator, providing goods or services, which has its principal office and place of doing business in Augusta-Richmond County; with gross annual receipts being less than \$500,000; and whose owners meet the personal net worth threshold, all as defined herein. The term Local Small Business shall also include a manufacturer with seventy-five (75) employees or less or wholesaler with fifty (50) employees or less without regard to gross revenues.

Citizen's Small Business Advisory Board (CSBAB) – Is a council to advise the Commission and LSBOP Economic Development Director of matters pertaining to this section, and to meet with small businesses to review and advise as to the issues in program administration. See Consolidation Act, Ga. Laws 1995, p. 3648, §1-40. Members are appointed by the Mayor, Commission and the Richmond County Legislative Delegation. A list of the initial appointees is attached hereto as Appendix II and incorporated herein by reference.

Competitive Bidding – process used by Augusta-Richmond County to request and receives sealed bids for labor, goods and services wherein the winning Bidder selected present the lowest qualified bid using any of the methods authorized by Article 6 of this chapter.

Commercially Useful Function - For the purpose of determining whether a Local Small Business is performing a commercially useful function, DBE Coordinator shall consider all of the facts in the record, viewed as a whole, including without limitation the following:

- (1) A Local Small Business performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.
- (2) To perform a commercially useful function, the Local Small Business must be responsible, with respect to material and supplies used on the contract or sub-contract for which it is engaged, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
- (3) A Local Small Business does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of Local Small Business participation. In determining whether a Local Small Business is such an

extra participant, the DBE Coordinator will examine similar transactions, particularly those in which Local Small Businesses do not participate.

Contract – total legal obligation that results from the parties’ agreement as affected by this title and any other applicable rules of law. (O.C.G.A. §11-1-201)

Disabled Veteran Business Enterprise (DVBE) – business certified by Augusta-Richmond County that is at least:

- (1) 51 percent owned by one or more disabled veterans or in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture’s management and control and earnings are held by one or more disabled veterans.
- (2) One or more disabled veterans manage and control the daily business operations. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.
- (3) A sole proprietorship, corporation, or partnership with its home office located in the Georgia, which is not a branch or subsidiary of a foreign corporation, foreign firm or other foreign-based business.

The individual seeking to qualify as the ‘disabled veteran’ in any such enterprise must be a resident of the state who may be either a war veteran or veteran of peace-time service as set forth below and such person must obtain a certificate of exemption issued by the state commissioner of veterans service:

- (4) A war veteran must furnish satisfactory proof that the veteran has a physical handicap which is disabling to the extent of ten percent or more; that the veteran’s service in the armed forces of the United States was terminated under conditions other than dishonorable; and that the veteran’s service or some part thereof was rendered during a war period, as defined by an act of the Congress of the United States, approved March 20, 1933, entitled, “An Act to Maintain the Credit of the United States,” and commonly known as PL 2, 73rd Congress; or that some part of the veteran’s service was rendered on or after December 7, 1941 and before December 31, 1946; or that some part of the veteran’s service was rendered on or after June 27, 1950 and before January 31, 1955; or that some part of the veteran’s service was rendered on or after August 5, 1946, and before May 8, 1975. Proof of such ten-percent disability shall be established upon the written certificate of two physicians as to such disability or by letter or other written evidence from the United States Department of Veterans Affairs stating the degree of disability or by written evidence from the branch of the armed forces of the United States in which such veteran served.

- (5) A veteran of peacetime service in the United States armed forces must furnish proof that the veteran has a physical disability to the extent of 25 percent or more incurred in the line of duty during the period of such service by a letter or other evidence from the United States Department of Veterans Affairs stating the degree of disability or by written evidence, from the branch of armed forces of the United States in which such veteran served, that the veteran's service in the armed forces of the United States was terminated under conditions other than dishonorable.

Disabled Business Enterprise – a business certified by Augusta-Richmond County that is 51 percent owned, controlled and operated by a handicapped individual or service-disabled individual. A handicapped individual is a person who has a physical, mental or emotional impairment, defect, ailment, disease or disability of a permanent nature, which in any way limits the selection of any type employment for which the person would otherwise be qualified or qualifiable. Ownership structure must be at least:

- (1) 51 percent owned by one or more handicapped individuals or service-disabled individuals or in the case of a publicly owned business, no less than 51 percent of its stock is owned by one or more handicapped individuals or service-disabled individuals; a subsidiary which is wholly owned by a parent corporation but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more handicapped individuals or service-disabled individuals; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more handicapped individuals or service-disabled individuals.
- (2) One or more handicapped individuals or service-disabled individuals manage and control the daily business operations. The disabled veterans who exercise management and control are not required to be the same handicapped individuals or service-disabled individuals as the owners of the business concern.
- (3) A sole proprietorship, corporation, or partnership with its home office located in the state of Georgia, which is not a branch or subsidiary of a foreign corporation, foreign firm or other foreign-based business.

Good Faith Efforts- Techniques used by a bidder/proposer to seek Local Small Businesses (LSB's) to participate (§ 1-10-9) as a subcontractor or supplier required to fulfill the bid/proposal request for participation. Such good faith efforts of a bidder/proposer include, but are not necessarily limited to, the following actions:

- (1) Including qualified Local Small Businesses (LSB's) solicitation lists for subcontractors and suppliers.
- (2) Assuring that LSB's are solicited whenever such business enterprises can perform a commercially useful function.
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation of LSB's.

- (4) Establishing delivery schedules, where the requirements of the prime contract permit, which encourage participation of LSB's.
- (5) Using the services and the assistance of the DBE Coordinator in the identification of qualified LSB's and negotiating subcontracts and supply contracts with such enterprises.
- (6) Requiring each first tier subcontractor to take the affirmative steps outlined in sub paragraphs 1 through 5 above with respect to the identification and usage of second or third tier sub-contractors.
- (7) Placing notices of opportunities for qualified LSB's to perform subcontracting work on the eligible project in newspapers, trade journals, and other relevant publications, including publications specifically targeted to local small businesses, or communicating such notices of opportunities via the Internet or by other available media or means.
- (8) Designating portions of the work for LSB subcontracting in trades with available LSB subcontractors.
- (9) Providing a minimum of five (5) days notice to LSB's when requesting bids or proposals for furnishing material or services as a subcontractor or supplier.

Gross Receipts – total income or, in the case of sole proprietorship gross income, plus “cost of goods sold” as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships.

Joint Venture – an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge.

Monthly Utilization Report or MUR – a memorialization by a prime contractor of all subcontracting and Local Small Business participation utilized on a contract. Contractors/vendors are required to submit the Monthly Utilization Reports on all subcontracting participation to the DBE Coordinator.

Non-Discrimination Statement- Written affirmation made by a bidder relating to the bidder's conduct prior to submission of a bid as well as after award of a contract that the bidder agrees to:

- (1) Follow the policies of the City of Augusta relating to the participation of LSB's.
- (2) Undertake certain measures to ensure the maximum practicable participation by LSB's; and
- (3) Not engage in discriminatory conduct against LSB's inconsistent with the policy.

Personal Net Worth – net value of the assets of an individual owner, after total liabilities are deducted must not exceed seven hundred and fifty thousand dollars (\$750,000). An individual's Personal Net Worth does not include the individual's ownership interest and the individual's equity in his or her primary place of residence. An individual's Personal Net Worth includes his or her share of assets held jointly with the individual's spouse. Property held by the entireties is deemed to be owned equally by the spouse.

Prime Contractor – a person or firm who is awarded a contract from Augusta-Richmond County for provision of goods or services and has the primary responsibility for performance of the contract. The Prime Contractor may subcontract portions of the work required to Subcontractors, as indicated in the bid or solicitation documents.

Proponent – any person or entity that submits a proposal to provide labor, goods, or services to Augusta-Richmond County by contract in response to a Request for Proposal, Request for Qualifications or Request for Competitive, Sealed Proposal.

Schedule of LSB Participation – Written data sheet which is a required submittal for a bid or proposal that lists proposed LSB subcontractors and the estimated value of proposed subcontracts.

§ 1-10-62. APPLICATION; EFFECTIVE DATE.

This ordinance shall apply to all bids, proposals, contracts, expenditures and purchases commenced on and after October 1, 2007, as further described below, except sole source or emergency procurement.

§ 1-10-63. PROGRAM ADMINISTRATION

A. SERVICES TO BE PROVIDED BY THE LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM (LSBOP)

Augusta, Georgia (Augusta-Richmond County) through its DBE Coordinator, shall have the primary responsibility to assure that the program is effectively and equitably carried out by Augusta-Richmond County. Other Augusta-Richmond County officials and management personnel shall give their full cooperation towards the implementation of the program. The DBE Coordinator shall direct the LSBOP so as to work in partnership with the Procurement Program set forth in Chapter 10 of ARC Code.

B. PROGRAM

The Local Small Business Opportunities Program administration consists of performing vendor certification, education and outreach, program coordination services, review and review of bid and proposal documents, and review of bid and proposal submissions. Specifically, the program shall consist of:

- (1) Developing and administering LSB certification criteria and procedures.

- (2) Establishing and maintaining a directory of certified LSBs capable of supplying the type and quality of equipment, supplies, general services, construction, and professional services required by Augusta-Richmond County.
- (3) Regularly seeking out and certifying new LSB's to bid on Augusta-Richmond County purchases and solicitations.
- (4) Notifying vendors of their certification status and advising non-certified parties of their right to appeal which shall be filed with Augusta-Richmond County within seven (7) days of receipt of such notice;
- (5) Developing annual forecasts and periodically updating same based on a review of anticipated purchases and certified LSB's.
- (6) Monitoring and reporting on legislative and judicial actions related to local, small business interests.
- (7) Reviewing specifications and bid documents with the Procurement Department to ensure maximum opportunity for LSBs to perform commercially useful functions.
- (8) Convening and/or participating in information sessions with LSB's regarding bid requirements and contract performance.
- (9) Providing technical assistance, conducting seminars, visiting vendors, and performing other outreach services to encourage and increase participation in Augusta-Richmond County's bidding process by LSB's.
- (10) Exploring and developing other means of expanding the program, and attracting and increasing LSB participation including joint efforts with other governmental agencies and authorities.
- (11) Encourage LSB's to participate in training programs offered by the LSB and/or third-party development assistance providers. Refer LSB's to third party development assistance providers when appropriate for bonding, financial and technical assistance.
- (12) Attend pre-bid (proposal) conferences to provide information on the LSBOP.
- (13) Preparing and presenting an annual LSBOP report to the Augusta-Richmond County Commission.
- (14) Assist prime contractors and other potential bidders in identifying and contacting LSBs.

C. PROCUREMENT DEPARTMENT RESPONSIBILITIES

- (1) Notify all registered vendors of formal bid opportunities through direct solicitation or public advertisement, including information on the LSBOP.

- (2) Adjust (reduce) bonding and insurance requirements on bids or solicitations when possible and appropriate.
- (3) Work with project managers or user agencies to divide larger projects into smaller projects or contracts when commercially appropriate, in order to create more opportunities for LSB's to participate in contracts let my Augusta-Richmond County.
- (4) Provide data and coordinate with the DBE Coordinator to provide LSBs with technical assistance and outreach efforts as necessary and appropriate.
- (5) Develop and utilize specifications that are open and competitive.
- (6) The Procurement Director, in consultation the DBE Coordinator, the Using Agency and the Finance Director or his/her designee, may make special provision for progress payments as deemed reasonable to assist LSB's to carry out the terms of a contract.
- (7) When a LSB is awarded a contract or sub-contract with Augusta-Richmond County, the Procurement Director may furnish written confirmation of the same, providing the terms of the contract which may be used by the LSB in negotiating lines of credit with lending institutions.

D. EVALUATION OF THE LOCAL SMALL BUSINESS OPPORTUNITY PROGRAM

The Local Small Business Opportunities Assistance Program (LSBOP) shall be evaluated on an annual basis. Each annual report shall compare fiscal year ending with the previous fiscal year. Evaluation of the program may include:

- 1) Number of LSB firms certified.
- 2 Training and technical assistance offered to LSBs
- 3) Dissemination of LSBOP information at pre-bid conferences.
- 4) Evaluation of the effectiveness of the LSB in relation to the achievement of the City's goals set forth under this policy, including the utilization of LSB's on contracts.

§ 1-10-64. CERTIFICATION PROCEDURES

A. CERTIFICATIONThe Augusta-Richmond County's Local Small Business Opportunities Program requires prior certification of a local small business in order to count the participation of that Local Small Business toward program goals. Eligibility Requirements for Certification are:

- (1) Applicant firm must qualify as a local small business, as the term is defined in this Article as to principle place of business, gross annual receipts and personal net worth thresholds. Representations as to a business entity's gross annual revenues, payroll, and personal net worth of individual applicants, shall be subject to audit by the DBE Coordinator. A location utilized solely as a post office box, mailbox,

or telephone message center, or any combination thereof, with no substantial work function, shall not be deemed to be a significant local presence sufficient to qualify as a local small business. Certification as to small business status may be accepted from other state or federal agencies that apply criteria substantially similar to that imposed by this ordinance.

- (2) Applicant firm must possess a valid Augusta-Richmond County business license for six (6) months prior to submitting their Local Small Business Opportunities Assistance Program certification application;
- (3) The firm's three-year average annual gross receipts, as defined herein, must not exceed \$500,000 in annual gross receipts;
- (4) Applicant firm owner must be a citizen or lawfully admitted permanent resident of the United States;
- (5) Applicant firm must be a business, including a sole proprietorship, partnership, corporations, limited liability company, or any other business or professional entity:
 - (a) which is at least fifty-one (51) percent owned by one (1) or more of the applicant individuals identified, and the ownership must have been in existence for one (1) year or more, and the applicant individual must have maintained such fifty-one (51) percent ownership for at least one (1) year; and
 - (b) in the case of a publicly-owned business, at least fifty-one (51) percent of all classes of stock which is owned by one (1) or more of such persons, each of whom meets the net worth criteria as defined herein.
- (6) No individual owner of an applicant firm, or if a sole proprietorship or partnership the individuals themselves, may have a personal net worth that exceeds \$750,000, as that term is defined in this Article.
- (7) No LSB shall be certified solely on the basis of the race or gender of its ownership regime.
- (8) Disabled Veteran Business Enterprises and Disabled Business Enterprises that meet the standards regarding principle place of business may be certified under this ordinance without regard to gross annual receipts or personal net worth thresholds.

B. RE-CERTIFICATION

A Local Small Business certification is valid for a two-year period beginning on the date Augusta-Richmond County certifies the business. To re-apply, a local small business must submit a new application and evidence of continuing eligibility.

It is the responsibility of the Local Small Business to notify DBE Coordinator of any change in its circumstances affecting its continued eligibility for the program. Failure to do so may result in the firm's de-certification and preclusion from future participation in the Local Small Business Opportunities Program;

- (a) A Local Small Business that no longer meets certification shall not be recertified by the DBE Coordinator;
- (b) Firms that have been denied certification or recertification may protest the denial as follows:
 - i. Within seven (7) days of receipt of denial of certification or re-certification, the firm may protest such action in writing to the DBE Coordinator;
 - ii. A hearing shall be held by the _____ at which time the firm may present additional facts and evidence in support of its eligibility. The _____ shall control all aspects of the hearing, including scheduling, conduct, witnesses, and evidence, and may request the attendance of witnesses and production of particular documents;
 - iii. The _____ shall send written notice of the decision to the firm within 30 days of the hearing.
 - iv. A firm found to be ineligible cannot apply for certification or re-certification for a period of one year after the effective date of the final decision.

C. LIMITATIONS

Notwithstanding any other provision of this program except on a finding of good cause by Augusta-Richmond County, a firm is no longer eligible to participate in the LSBOP after being enrolled for ten (10) consecutive years regardless of whether the firm received contracts or prime contracts under the program. If a firm has been released from the program before graduation as a result of exceeding the LSBOP thresholds, it will still be eligible to receive contracts from ARC, but such participation will not be counted toward the LSBOP goal of identifying and employing local small businesses to the greatest extent possible.

In determining whether a good cause exists for a firm to continue participation beyond ten (10) consecutive years, ARC may review all relevant factors such as amount of business previously received by the firm, and capability of other small firms to provide goods and services, impact on a potential contract opportunity for other local businesses to compete. In no event shall a firm's participation in the program extend beyond fifteen (15) years. (1)

D. GRADUATION

Augusta Richmond County may graduate an LSB business from eligibility as an LSB. The LSB business will be graduated from LSB if any one of the following occurs:

- (1) The LSB's gross revenues for the previous consecutive three (3) years exceed \$500,000.00;
- (2) The net worth of any owner of an LSB exceeds \$750,000.00 for the previous consecutive three (3) years, exclusive of principal residence and the value of the LSB; or
- (3) The LSB business has participated in the LSB for ten years and ARC has not approved an extension of participation based on good cause.

§ 1-10-65. LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM PARTICIPATION

A. SEALED BIDS, SEALED PROPOSALS, PROFESSIONAL SERVICES AND OTHER MAJOR PURCHASING

The following procedures and contract requirements will be used to insure that LSB's are encouraged to participate in City contracts, including but not limited to construction contracts, request for professional services and the performance of public works contracts:

- (1) Bid conditions, requests for proposals, and all other specifications for contracts awarded by the City will require that, where subcontracting is utilized in performing the contract, the bidder or proponent, will make a Good Faith Effort to subcontract with or purchase supplies from LSB's. Bid specifications will require the bidder or proponent to keep records of such efforts that are adequate to permit a determination of compliance with this requirement.
- (2) With the bid, each bidder will be required to state if it intends to subcontract any part of the work. Prior to award of contract where the low bidder indicated plans to subcontract, the bidder shall be required to provide documentation of Good Faith Efforts to engage LSB's as subcontractors or suppliers, the names of LSB's and other subcontractors to whom it intends to award subcontracts, the dollar value of the subcontracts, and the scope of the work to be performed.
- (3) For all such contracts, the Procurement Department will provide the DBE Coordinator with a copy of the invitation to bid or bid specifications, including the scope of work. The DBE Coordinator will identify the existence of certified LSB's which are qualified to submit bids as prime contractors.
- (4) The DBE Coordinator shall identify subcontracting opportunities and shall make available trade specific lists of certified LSB's to potential prime contractors. Prime contractors are encouraged to form Joint Ventures with LSBs to perform major contracts, particularly in the areas of construction and professional services.

- (5) Within thirty (30) days of the adoption of this Ordinance, the Procurement Department will include a copy of this ordinance in each bid or proposal.
- (6) All bid documents shall require bidders or proponents to submit with their bid in a separate sealed envelope the following:
 - (a) Non-Discrimination Statement which shall affirm the bidder's: (i) adherence to the policies of Augusta-Richmond County relating to equal opportunity in contracting; (ii) agreement to undertake certain measures as provided in this policy to ensure maximum practicable participation of local small businesses; and (iii) agreement not to engage in discriminatory conduct of any type against LSB's..
 - (b) Proposed Schedule of local small business participation.
 - (c) Documentation of Good Faith Efforts to use LSB's.

Failure to submit the above documentation shall result in the bid or proposal being declared non-responsive.

- (7) As permitted by State law the City will adjust, reduce, or waive bid bonds and performance bonds for projects under \$40,000.
- (8) Contracts shall require that during the term of the contract, the contractor will:
 - (a) Fulfill the LSB participation commitments that were submitted in connection with the bids or proposal;
 - (b) Continue to make Good Faith Efforts to utilize LSB's for the performance of the contract;
 - (c) Maintain records necessary for monitoring Good Faith Efforts.
- (9) Before advertising and soliciting bids, the DBE Coordinator and requesting department will assess if large contracts can be segmented into multiple contracts. Methods to be considered include:
 - i. The term of a contract may be shortened that results in a dual effect; the reduction of quantity required, and the risk inherent in guaranteeing prices over a longer period of time.
 - ii. Work to be performed may be grouped according to geographic location within the City.

B. DEPARTMENTAL PURCHASE REQUIREMENTS (SMALL PURCHASES, QUOTATIONS, OR INFORMAL BIDS)

Subject to the dollar limits set forth under City ordinance, departments are authorized to make small purchases using Agency Purchase Orders. Departments shall be directed by the County Administrator to utilize LSB's on small purchases.

- (1) The DBE Coordinator shall provide every City department with a directory of certified LSB's and encourage their use of by departments.
- (2) The DBE Coordinator shall provide training to all City Departments on the Local Small Business Opportunities Program participation encouragement plan.
- (3) The Procurement Director shall track LSB purchases by department and provide feedback to department heads and the DBE Coordinator on use of LSB's for small purchases. Performance evaluations of department heads shall include a review of purchases made from LSB's and progress made towards increased LSB participation.
- (4) The Procurement Director shall ensure that all City specifications for goods and services do not contain any unnecessary impediment to LSB participation in the bid process. The DBE Coordinator will make recommendations to the Procurement Director when a specification appears to impede LSB's from competitively participating in a bid.
- (5) The Procurement Director will solicit bids from all certified LSB's that may supply the required materials, equipment, supplies or services.
- (6) The Procurement Director will notify the DBE Coordinator whenever there are no known qualified LSB's available for procurement. The DBE Coordinator will attempt to identify qualified LSB's, and if successful, will notify the Procurement Director of their availability. The Procurement Director will include such LSB's in bid/quote solicitation lists.

C. PROCUREMENT DEPARTMENT BUYER'S RESPONSIBILITIES

- (1) For all purchases, all certified LSB's which are ready, willing and able to perform the required services or provide the required commodity, will be solicited for a quotation or bid. If there are no known LSB's for a particular item, the buyer shall request a list from the DBE Coordinator.
- (2) Purchases from LSB's shall be tracked by the buyer.

D. MAINTENANCE OF RECORDS

- (1) The DBE Coordinator, with the assistance of the Procurement Department, shall compile data on LSB participation. Information on construction contract prime awards and subcontract awards will be maintained by the DBE Coordinator who

will gather information from all user Departments to include the Engineering, Utilities, Parks and Recreation, Public Services (Maintenance Division, Facilities Maintenance and Trees and Landscape) and forwarded to the DBE Coordinator on a quarterly basis. LSB utilization statistics shall be maintained in the following manner:

- (a) Contracts and purchases shall be grouped into four categories: construction, professional services, general services and materials/equipment/supplies.
 - (b) Statistics shall measure overall awards to LSB's by category of purchase (i.e. construction, professional services, general services, and materials/equipment/supplies).
- (2) The following statistics shall be reported not less than annually to the August Richmond County Commission by the DBE Coordinator.
- (a) Regarding purchases of professional services, general services and material/equipment/supplies made through the competitive bid and quotation process:

Total value of purchases
Total value of purchases from LSB's
 - (b) Regarding small purchases by operating department using Agency Purchase Orders:

Total value of small purchases by City department
Total value of small purchases from LSB's by City Department
 - (c) Regarding construction purchases:

Total value of construction contract awards
Total value of construction contracts awarded to LSB's
Total value of subcontracts awarded to LSB's

E. COMPLIANCE

- (1) It will be the duty of the Procurement Director to ensure that bids or proposals issued from the Procurement Department adhere to the provisions set forth in this Policy.
- (2) The Procurement Director, Utilities, Engineering, Parks and Recreation, and Public Services (Maintenance Division, Facilities Maintenance and Trees and Landscape) Director's will assume primary responsibility for evaluating compliance with this program in their respective contract areas and will review, on a continuing basis, all aspects of the program's operations to assure that the

purpose is being attained and reporting same to the DBE Coordinator for tracking and annual report purposes.

- (3) Each City contract will contain a provision requiring compliance with this policy including maintenance of records, good faith efforts, and maintenance of information necessary to document compliance, and include the right of the City to inspect such records. The record will be a part of the official files located in the Procurement Office.
- (4) The DBE Coordinator shall be responsible for evaluating Good Faith Effort documentation and subcontractor information submitted by bidders in conformance with this policy, Augusta Richmond County Code and any State and Federal Laws of any bid specifications for competitive sealed bid or competitive sealed proposal projects prior to award of the contract.
- (5) Each City contract will contain a provision prohibiting any agreements between a contractor and an LSB in which the LSB promises not to provide subcontracting quotations to other bidders or potential bidders.
- (6) The DBE Coordinator with the assistance of the using Department Directors will monitor and evaluate Program performance and compliance. Failure to comply with the LSB requirements may result in a recommendation for suspension or debarment of the firms or individuals involved.

F. COMPETITIVE BIDS

Nothing in this Policy is to be construed to require the City to award a bid contract to other than the lowest responsible bidder or to require contractors to award to subcontractors, or to make significant material purchases from LSB's who do not submit the best overall pricing to the City.

G. OUTREACH

To maximize the identification, certification and utilization of LSB's, the following efforts will be undertaken by the DBE Coordinator:

- A. Increase efforts to locate additional vendors, service providers, and construction contractors that can provide goods and services for the City through media, vendor fairs, and electronic message boards.
- B. As GDOT and FAA certified construction contractors are located, invite local firms to submit evidence of certification to Augusta-Richmond County for a resource to prime contractors to locate LSB's for projects that can utilize LSB's for a commercially useful function.
- C. Supply information to the Board of Commission regarding the City's plan and discuss opportunities for ways in which the Board of Commission can be an advocate of the LSBOP.

§ 1-10-66. EXCEPTIONS – FEDERALLY FUNDED PROJECTS

In accordance with §1-10-8, this chapter shall not apply to any bid or procurement to which federal or state laws, regulations or guidelines regarding the use of race conscious, disadvantaged or other requirements apply.

§ 1-10-67. CITIZENS ADVISORY COUNCIL

LOCAL SMALL BUSINESS OPPORTUNITIES PROGRAM, CITIZENS ADVISORY COUNCIL (CAC) shall be constituted to advise the Commission and DBE Coordinator on matters related to this ordinance, and to meet with local small businesses, to review and provide input as to the issues in program administration. *See Consolidation Act, Ga. Laws 1995, p. 3648, §1-40.* Members are appointed by the Mayor, Commission and the Richmond County Legislative Delegation. A list of the initial appointees is attached hereto as Appendix II and incorporated herein by reference.

§ 1-10-8. COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

When the procurement transaction involves the expenditure of State or Federal Assistance, the transaction shall be conducted in accordance with any applicable mandatory State or Federal laws and authorized regulations which are not reflected in this chapter. Notwithstanding where State and Federal assistance or contract funds are used in procurement transaction, any applicable local requirements that are more restrictive than State or Federal requirements shall be followed.

SECTION THREE

Code Sections 1-10-63 through 1-10-66 shall be renumbered and redesignated as Code Sections 1-10-96 through 1-10-99, inclusive:

§ 1-10-96. AUTHORITY TO SUSPEND OR DEBAR FROM QUALIFIED BIDDER /PROPOSER LIST

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Augusta-Richmond County Commission is authorized to suspend or debar a person for cause from consideration for award of contracts. The suspension may be for a period of not more than three months. The debarment shall be for a period of not more than three years. The Augusta-Richmond County Administrator is authorized to suspend a person from consideration for award of contracts if there is any activity which might lead to debarment. The Administrator's suspension shall be for a period not to exceed 30 days.

§ 1-10-97. CAUSES FOR SUSPENSION AND DEBARMENT

The causes for suspension or debarment may include, but are not limited to:

- (a) conviction for the commission of a criminal offense as an incident to obtaining or attempting to obtain any public or private contract or subcontract, or in the performance of such contract or subcontract;
- (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, indicating a lack of business integrity or business honesty;
- (c) Conviction under state or federal antitrust statutes arising out of the submission of any bids or proposals;
- (d) Violation of prior Richmond County contract provisions, as set forth below, of a character which is regarded by Augusta-Richmond County to be so serious as to justify suspension or debarment action, such as a deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in any prior Richmond County contract; or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Richmond County contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be basis for debarment;
- (e) Any other cause determined to be so serious and compelling that would materially affect or has materially affected the responsibility of a contractor in the performance of his duties under any contract, including debarment by another governmental entity for any cause listed in this chapter; and

- (f) For violation of any ethical standards set forth in Article 2 (Ethics in Public Contracting) of this chapter.

§ 1-10-98. DECISION TO SUSPEND OR DEBAR:

Any decision to suspend or debar a person may be made by the Augusta-Richmond County Administrator or to recommend suspension or debarment to the Commission shall be in writing and shall state the reasons for the action or recommended action and inform the suspended person of their rights to an administrative appeal to the Commission. Any decision by the Commission to suspend or debar any person from the procurement process shall be on the record and in writing and shall state the reasons for the action taken.

§ 1-10-99. NOTICE OF DECISION

A copy of the written decision required by § 1-10-65 (Decision to Suspend or Debar) shall be mailed by certified mail, return receipt requested, to the suspended or debarred person.

APPENDICES

APPENDIX I § 1-10-9. Definitions – Adopted from Procurement

APPENDIX II Small Business Advisory Board Members

¹ APPENDIX 1

§ 1-10-9. DEFINITIONS-ADOPTED FROM PROCUREMENT

The terms, phrases, words, and their derivations set forth below shall have the meaning given herein. Words not defined herein or within the Official Code of Georgia Annotated shall be interpreted so as to give them the meaning they have in common usage and to give this chapter the most reasonable application. Words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense. The words shall, will, and must are mandatory and not discretionary. The word may is permissive.

(a) Agreement. The bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in O.C.G.A. 11-1-205 and 11-2-208. Whether an agreement has legal consequences is determined by the provision of this title, if applicable; otherwise, by the law of contracts (O.C.G.A. 11-1-103). (O.C.G.A. 11-2-201)

(b) Bid. An offer by an intending purchaser to pay a designated price for property which is about to be sold at auction, and an offer to perform a contract for work and labor or supplying materials or goods at a specified price. (Black's Law Dictionary, 5th Edition)

(c) Bid Bond. A type of bond required in public construction projects which are filed at the time of the bid and which protects Augusta-Richmond County in the event that the bidder refuses to enter into a contract after the award to him or withdraws his bid before the award. A type of indemnity bond. (Black's Law Dictionary, 5th Edition)

(d) Bidders List. Augusta-Richmond County's official list of qualified persons or vendors to be invited to respond to any type of invitation for bids or requests for proposals which shall be maintained by the Procurement Director.

(e) Bill of Lading. A document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. Airbill means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill. (O.C.G.A. 11-1-201)

(f) Blind Trust. An independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other disposition of, the property subject to the trust.

(g) Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, firm, or any other private legal entity.

(h) Buyer in ordinary course of business. A person who, in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. Buying may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title

under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total a partial satisfaction of money debt. (O.C.G.A. 11-1-201)

(i) Change Order. The formal document effecting a bilateral contract modification that alters the specification, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual agreement of the parties to the contract.

(j) Commodities. Those things that are useful or serviceable, particularly articles of merchandise moveable in trade. Goods, wares, supplies, and merchandise of any kind; movables; articles of trade or commerce are all included within this definition. (Black's Law Dictionary, 5th Edition)

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

(l) Contract. The total legal obligation which results from the parties' agreement as affected by this title and any other applicable rules of law. (O.C.G.A. 11-1-201)

(m) Contract Administration. All activity necessary after award of a contract to administer a contract and to ensure full compliance with its terms, conditions, and scope of services.

(n) Contract Directive. A written order signed and issued by the Augusta-Richmond County Administrator, directing the contractor to make changes which the Changes clause of the contract authorized Augusta-Richmond County to order without the consent of the contractor.

(o) Contract Documents. All items which define the scope of the project including plans and specifications, including but not limited to, advertisement for bids, instructions to bidders, bid proposal, proposed contracts, proposed bond form, general conditions, special conditions, and technical specifications.

(p) Contract Modification. Any change order, contract price adjustment or contract revision or similar document which modifies an existing contract.

(q) Contractor and/or Sub-Contractor. Any person having a contract with Augusta-Richmond County, a using agency of Augusta-Richmond County, or a contractor thereof.

(r) Cooperative Procurement. Acquiring commodities, services, and construction by, or on behalf of, more than one public procurement unit.

(s) Cost Analysis. The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

(t) Cost Data. The factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

- (u) Cost-reimbursement Contract. A contract under which a contractor is reimbursed for costs which are allowable and in accordance with the contract terms and the provisions of this chapter, and a fee or profit, if any.
- (v) County. Richmond County, Georgia.
- (w) County Commission. The Board of Commissioners of Richmond County which is the governing body of Richmond County.
- (x) County Commission Mayor. The chief executive Coordinator of Richmond County who is authorized to sign all contracts for the Board of Commissioners.
- (y) County Administrator. The chief appointed administrative office of Richmond County.
- (z) Creditor. Includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate. (O.C.G.A. 11-1-201)
- (aa) Days. Richmond County working days.
- (bb) Debarment. To bar, exclude, or preclude from having or doing something. Exclusion from government contracting and subcontracting. (Black's Law Dictionary, 5th Edition)
- (cc) Delivery with respect to instruments, documents of title, chattel paper, or securities. Voluntary transfer of possession.
- (dd) Designee. A duly authorized representative of a person holding a superior position.
- (ee) Direct or Indirect Participation. Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- (ff) Document of Title. Includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. (O.C.G.A. 11-1-201)
- (gg) Emergency. Any reasonably unforeseen circumstances, i.e. breakdown in major equipment, threatened termination or curtailment of an essential service, or development of a dangerous condition that creates an immediate threat to public health, welfare or safety.
- (hh) Employee. An individual drawing a salary or wages from Richmond County, whether elected or not; any non-compensated individual performing personal services for Richmond

County or any department, agency, commission, council, board, or any other entity established by the executive, legislative or judicial branch of the County; and any non-compensated individual serving as an elected official of Richmond County.

(ii) Fault. Wrongful act, omission or breach. (O.C.G.A. 11-1-201)

(jj) Financial Interest. All direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is ten (10) percent or more. (O.C.G.A. 36-67A-1)

(kk) Firm. Any individual, partnership, corporation, association, joint venture, or other legal entity permitted by law to practice or offer professional or consultant services.

(ll) Fungible with respect to goods or securities. Goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purpose of this title to the extent that under a particular agreement or document unlike units are treated as equivalents. (O.C.G.A. 11-1-201)

(mm) Good Faith. Honesty in fact in the conduct or transaction concerned. (O.C.G.A. 11-1-201)

(nn) Gratuity. A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(oo) Genuine. Free of forgery or counterfeiting. (O.C.G.A. 11-1-210)

(pp) Holder. A person who is in possession of a document of title or an instrument or an investment security drawn, issued, or endorsed to him or to his order or to bearer or in blank. (O.C.G.A. 11-1-201)

(qq) Honor. To pay or to accept and pay, or where a credit so engages, to purchase or discount a draft complying with the terms of credit. (O.C.G.A. 11-1-201)

(rr) Immediate Relative or Immediate Family. Father, mother, son, daughter, brothers, sisters, grandparents or grandchildren, wife or husband, or the wife or husband of any of the preceding persons.

(ss) Invitation for Bids. A type of advertisement used by one who desires bids to be submitted for a particular project and includes all documents, whether attached or incorporated by reference, utilized for soliciting an intelligent bid.

(tt) Let (contracts). Award to one of several persons, who have submitted proposals (bids) therefor, the contract for erecting public works or doing some part of the work connected therewith, or rendering some other service to the government for a stipulated compensation. Letting the contract is the choosing of one from among the number of bidders, and the formal making of the contract with him. The letting, or putting out, is a different thing from the invitation to make proposals; the letting is subsequent to the invitation. It is the act of awarding

the contract to the proposer, after the proposals have been received and considered. (Black's Law Dictionary, 5th Edition)

(uu) Lowest and Best Bidder. The most responsive bidder or offerer as herein defined who has offered the requested goods, services, or construction for the lowest cost.

(vv) Nominal Value. Any gift or gratuity of less than twenty-five dollars.

(ww) Notice. Knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised diligence. (O.C.G.A. 11-1-201)

(xx) A person has notice of fact when:

- (1) He has actual knowledge of it; or
- (2) He has received a notice or notification or it; or
- (3) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person knows or has knowledge of a fact when he has actual knowledge of it. Discover or learn or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this title. (O.C.G.A. 11-1-201)

(yy) A person notifies or gives a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person receives a notice or notification when:

- (1) It comes to his attention; or
- (2) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications. (O.C.G.A. 11-1-201)

(zz) Offer. A proposal or bid submitted in response to a request for proposal or invitation for bids. A proposal to do a thing or pay an amount, usually accompanied by an expected acceptance, counter-offer, return promise, or act. A manifestation or willingness to enter into a bargain, so made as to justify another person in understanding that his assent to that bargain is invited and will conclude it. (Black's Law Dictionary, 5th Edition)

(aaa) Organization. Includes a corporation, government or governmental subProgram or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity. (O.C.G.A. 11-1-201)

(bbb) Party as distinct from third party. A person who has engaged in a transaction or made an agreement within this title. (O.C.G.A. 11-1-201)

(ccc) Person. Any business, individual, union, committee, club, other organization, or group of individuals.

(ddd) Pre-qualification. The process to determine whether a prospective bidder or proposer satisfies the criteria established for inclusion on the pre-qualified bidders or proposers list.

(eee) Presumption or Presumed. The trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence. (O.C.G.A. 11-1-201)

(fff) Price Analysis. The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

(ggg) Pricing Data. The factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered selling prices, historical selling prices, and current selling prices. The definition refers to data relevant to both prime and sub-contract prices.

(hhh) Procurement. The buying, purchasing, renting, leasing, or otherwise acquiring of any goods, supplies, services, or construction products. It also includes all functions that pertain to the obtaining of any supply, service, professional service or construction product, including description of requirements, selection, and solicitation of sources, preparation, and award of contract.

(iii) Product. Something produced by physical labor or intellectual effort or something produced naturally or as a result of natural process as by generation or growth. (Black's Law Dictionary, 5th Edition). As used in this chapter, the term product is a very broad term that could include all types of commodities, supplies, equipment, materials, goods, services and construction.

(jjj) Product Reference. A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.

(kkk) Professional Services. Those licensed and professional services as defined by the laws of the State of Georgia.

(lll) Proposal. An offer; something proffered. An offer, by one person to another, of the terms and conditions with reference to some work or undertaking, or for the transfer of property, the acceptance whereof will make a contract between them. (Black's Law Dictionary, 5th Edition) Proposals for professional services received by the County will be evaluated for their comparative level of compliance with the specifications issued for the project. The evaluation of proposals may or may not include proposed price as one of the evaluation criteria.

(mmm) Public Procurement Unit. Any unit or subunit of any federal, state, or local government, or any non-profit entity which expends public funds for the procurement of commodities, services, or construction products.

(nnn) Public Sale. A sale:

- (1) Held at a place reasonably available to persons who might desire to attend and submit bids; and
- (2) At which those attending shall be given the opportunity to bid on a competitive basis; and
- (3) At which the sale, if made, shall be made to the highest and best bidder; and
- (4) Except as otherwise provided in this title for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published, in the county where the sale is to be held, and which notice shall state the day and hour, between 10:00 a.m. and 4:00 p.m., and the place of sale, and shall briefly identify the goods to be sold.

The provisions of this paragraph shall not be in derogation of any additional requirements relating to notice of any conduct of any such public sale as may be contained in other provisions of this title but shall be supplementary thereto. (O.C.G.A. 11-1-201)

(ooo) Public Works Contract. Any contract for a county government public works project valued at \$20,000 or more as more fully defined in O.C.G.A. 36-10 and Article X of this chapter.

(ppp) Purchase. Includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property. (O.C.G.A. 11-1-201)

(qqq) Purchaser. A person who takes by purchase. (O.C.G.A. 11-1-201)

(rrr) Purchase Order. A document authorizing a seller to deliver goods with payment to be made later. A written authorization calling on a vendor or supplier to furnish goods to the person ordering such. It constitutes an offer which is accepted when the vendor supplies the quantity and quality ordered. (Black's Law Dictionary, 5th Edition)

(sss) Procurement Director. The supervisor of the Procurement Department and as further defined in the Richmond County Code and elsewhere in this chapter.

(ttt) Qualified Products List. An approved list of commodities described by model or catalog numbers, which, prior to competitive solicitation, the County has determined will meet the applicable product specifications requirements.

(uuu) Quotations or informal bids selection method. The method for submitting a bid to perform work or offer a commodity to the County on a proposed contract without the formality

of a written proposal or sealed bid. See §505 for additional detail defining the quotations or informal selection method.

(vvv) Representative. Includes an agent, an Coordinator of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another. (O.C.G.A. 1-11-201)

(www) Requisition. The document whereby the using agencies request that a purchase be made on their behalf. Requisition includes, but is not limited to, a description of the requested commodity, service or construction product, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information supplied for the working of any written determination required by this chapter.

(xxx) Request for Proposals (RFP). All documents, whether attached or incorporated by reference, utilized for soliciting proposals.

(yyy) Request for Qualifications (RFQ). A method used to predetermine the capacity of prospective bidders or proposers for a specific project.

(zzz) Request for Quotations (RFQ). An informal solicitation for prices.

(aaaa) Responsible Bidder or Proposer. A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance. In considering whether a bidder is responsible, the Purchasing Director, County Administrator, using agency head, or County Commission may consider the bidder's quality of work, general reputation in the community, financial responsibility, and previous employment or use by the County.

(bbbb) Responsive Bidder or Proposer. A person who has submitted a bid or proposal which conforms in all material respects to the requirements set forth in the invitation for bids or request for proposal.

(cccc) Sealed Bid. A method for submitting a bid to perform work on a proposed contract. In general, each party interested submits a bid in a sealed envelope, and all such bids are opened at the same time and the most favorable responsible bid is accepted. (Black's Law Dictionary, 5th Edition) See §502 for additional detail explaining the sealed bid selection method.

(dddd) Sealed Proposal. A method for submitting a proposal for services or a combination of services and commodities on a proposed contract. In general, each party interested submits a proposal in two sealed envelopes. One envelope shall contain the price proposal and the second sealed envelope shall contain the technical (non-price data) proposal. The technical proposal shall be opened and reviewed and ranked by the Purchasing Director before the price proposal is opened and reviewed. The sealed proposal method is not intended to be done as a public bid opening because of the technical complexities of the proposal which must be reviewed in detail before the proposals can be compared, rated, and ranked.

(eeee) Security Interest. An interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (O.C.G.A. 11-2-401) is limited in effect to a reservation of a security interest. The term also includes any interest of a buyer of accounts, or chattel paper which is subject to Article IX of this title. The special property interest of a buyer of goods on identification of such goods to a contract for sale under O.C.G.A. 11-2-401 is not a security interest, but buyer may also acquire a security interest by complying with Article IX of this title. Unless a lease or consignment is intended as security, reservation of title thereunder is not a security interest but a consignment is in any event subject to the provisions on consignment sale (O.C.G.A. 11-2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease, the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security. (O.C.G.A. 11-1-201)

(ffff) Send in connection with any writing or notice. To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. (O.C.G.A. 11-1-201)

(gggg) Services. The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

(hhhh) Signed. Includes any symbol executed or adopted by a party with present intention to authenticate a writing. (O.C.G.A. 11-1-201)

(iiii) Small Business. A United States business which is independently owned and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.

(jjjj) Sole Source. That there is only one source for the procurement of any goods, supplies, services or construction. Only one source means that there is only one manufacturer or product source and/or only one vendor source for the required commodities, services or construction products.

(kkkk) Specification. Any description of the physical or functional characteristics or of the nature of commodities, services, or construction products. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction product for delivery.

(llll) Substantial Interest. The direct or indirect ownership of more than 25 percent of the assets or stock of any business. (O.C.G.A. 45-10-20)

(mmmm) Supplies. Those accumulated stores reserved for distribution (Black's Law Dictionary, 5th Edition), and for the purposes of this chapter shall include any goods, equipment, material or other personal property owned by Richmond County and available for use by the personnel of the organization.

(nnnn) Surplus Supplies. Any County supplies no longer needed having any use to Richmond County as determined of official action of the Board of Commissioners.

(oooo) Suspension. A temporary stop, a temporary delay, interruption, or cessation. A temporary cutting off or debarring one, as from the privileges of one's profession. Temporary withdrawal or cessation as distinguished from permanent severance accomplished by debarment. (Black's Law Dictionary, 5th Edition)

(pppp) Term. That portion of an agreement which relates to a particular matter. (O.C.G.A. 11-1-201)

(qqqq) Transact Business or transact any business. To sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative and means to purchase surplus real or personal property on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative. (O.C.G.A. 45-10-20)

(rrrr) Unauthorized signature or endorsement. One made without actual, implied, or apparent authority and includes a forgery.

(ssss) Using Agency. Any department, commission, board, office, authority, or Program of Richmond County requiring commodities, services or construction products or professional or other consultant services.

(tttt) Using Agency Head. The director or head of a using agency who is responsible for the administration or such using agency.

(uuuu) Value. Except as otherwise provided with respect to negotiable instruments and bank collections (O.C.G.A. Sections 11-3-303, 11-4-208, and 11-4-209) a person gives value for rights if he acquires them:

- (1) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or
- (2) As security for or in total or partial satisfaction of a preexisting claim; or
- (3) By accepting delivery pursuant to a preexisting contract for purchase; or
- (4) Generally, in return for any consideration sufficient to support a simple contract. (O.C.G.A. 11-1-201)

(vvvv) Value Analysis. An organized and systemic study of every element of cost in a part, material, or service to make certain it fulfills its function at the lowest possible cost.

(www) Warehouse Receipt. A receipt issued by a person engaged in the business of storing goods for hire. (O.C.G.A. 11-1-201)

(xxxx) Warranty Period. A one-year period following final acceptance of the project during which the contractor is responsible for repair of any work not caused by vandalism or natural disaster.

APENDIX II

SMALL BUSINESS ADVISORY BOARD MEMBERS

Arthur Earl Thompkins

Clyde Hightower

Keith Brown

Kevin Glass

Lonnie Wimberly

Jack Steinberg

Cleveland Garrison

Charlie Hannah

Helen Blocker-Adams

Robert Lowery

Harold Petteway

Yvonne Gentry

SECTION 4.

Upon the passage of an authorizing resolution and an adequate appropriation, Augusta shall conduct a Disparity Study to inquire into race and gender disparities which may or may not affect the further amendment to this ordinance.

SECTION 5.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

The foregoing Ordinance is hereby adopted by the Augusta-Richmond County Commission this _____ day of _____, 2007.

David S. Copenhaver
Mayor

ATTEST:

Clerk

First Reading: _____

Second Reading: _____



**Administrative Services Committee Meeting
8/27/2007 12:45 PM
Reprogram Funds \$615,273.93**

Department: Housing & Community Development

Caption: Discussion of the reprogramming of \$615,273.93 in CDBG Funds and changing the Scope of Work for the McDuffie Woods Community Center Year 2007 CDBG Project (a non-action agenda item).

Background:

The Department has \$615,273.93 in CDBG funds that need to be reprogrammed to facilitate the expenditure of CDBG funds in a timely manner by October 31, 2007. We have two (2) projects that can't proceed because the agencies are unable to acquire the sites, one project needs a van and we have a van that the agency can use, one project contains 1999 uncommitted funds and we have an accumulation of CDBG program income that needs to be allocated to project(s).

More specifically, the projects we are proposing to reprogram funds from are outlined below:

1. Augusta Canal Authority Park "Heritage Park" - \$155,000 - Justification: The Atlanta Gas Company was supposed to donate the property to the authority which would be used as a park at the corner of 9th & Walton Way. To date, the property has not been donated. Therefore, the project cannot be completed this year.
2. Golden Harvest Food Bank - \$100,000 - Justification: The agency was supposed to acquire property which would be used as a soup kitchen. CDBG funds were to be used for kitchen equipment. The agency has been unable to acquire a building; therefore, the project cannot be completed this year.
3. Light of the World Neighborhood & Economic Development, Inc. - \$18,700 - Justification: Funds were allocated for the agency to purchase a van which would be used to transport alternative school students to the Tutoring Program in Aragon Park. The Department has possession of the van recaptured from the Transition Center Program on Wrightsboro Road. We are planning to repair the van and provide it for use by Light of the World.
4. Façade Rehabilitation Program - \$13,569.93 -

Justification: These are Year 1999 uncommitted Façade funds that HUD will recapture if not used by December 31, 2007. 5. Program Income - \$328,004 -

Justification: The \$328,004 is the result of an increase in program income from what was anticipated over the course of several years. Program income is generated from the repayment of Housing Rehabilitation loans, Economic Development loans or any other loans that the Department may have granted. Because we underestimated the amount anticipated, we accumulated an excess. Therefore, this accumulation of funds need to be allocated to projects.

Projects that the \$615,273.93 will be reprogrammed to are indicated below: 1. 30901 Clinic - \$133,000 -

Justification: \$175,000 in CDBG funds were originally approved for this project July 10, 2007. The architect's estimate for the project is \$275,000. Due to architectural fees and the additional cost for construction, \$133,000 is needed for the project. Project is scheduled for bid September 11, 2007. 2. BeulahGroveResourceCenter - \$7,000 -

Justification: A total of \$75,000 in CDBG funds were allocated for paving the parking lot and installing handicapped accessible doors to the

BeulahGroveResourceCenter. Due to the construction planned for the clinic (above), architectural plans for the parking lot had to be redrafted. The additional cost required for revision to this project amounts to \$7,000. This project will be done in conjunction with the clinic above. 3. New Bethlehem Center Improvements (playground equipment) -

\$18,842.50 - Justification: \$57,000 was originally approved for this project. The project was let for bid with the low bid being \$68,966.57. With the bid and architectural fees, an additional \$18,842.50 is required in order for the project to proceed. 4. Apple ValleyPark – Phase II -

\$96,000 - Justification: \$96,000 in CDBG funds will be used to replace the \$96,000 in SPLOST funds expended on this project. 5. Hope House - \$183,431.43 -

Justification: To be used toward the purchase of the property located at 2205 Highland Avenue. Property will be renovated into 42-units which will be used to provide permanent housing for homeless females recovering from substance abuse. Agency has State HOME funds that will be used for construction. 6. Laney Walker Development Corporation - \$30,000 - Justification: Funds will be used for capacity building (\$13,000 loan; \$17,000 grant) 7.

Augusta Mini Theatre - \$100,000 - Justification: Funds will be used for the demolition of the dilapidated structure next to the new theatre in process of being built on Deans Bridge Road. 8. Augusta Mini Theatre - \$25,000 -

Justification: Funds will be used for program services. 9. MACHAcademy – FlemingTennisCenter Improvements- \$22,000 - Justification: \$125,000 was originally allocated to the project. Because of the need to rehab the shower/bathroom, an additional \$20,000 is required for construction and \$2,000 for A/E fees.

McDuffieWoodsCommunity Center Improvements – \$25,000 was originally designated in the 2007 budget for construction of a walking track. Because of the need for a kitchen, funds will be used for kitchen improvements.

Because this reprogramming of funds is a “substantial change” to the Action Plan, we must solicit public comments for a 30-day period. The ad was published August 21, 2007 with the deadline for public comment being September 17. On September 10, staff will return and present to Committee and Commission (September 19) for action the Proposed List of Reprogramming and any public comments.

Analysis: Reprogramming of these funds will allow the department to accelerate the expenditure of funds to prevent non-compliance of the CDBG regulations.

Financial Impact: This reprogramming of funds is a reallocation of existing funds.

Alternatives: None recommended.

Recommendation: Accept the Proposed Reprogramming of Funds as Information.

Funds are Available in the Following Accounts: Existing CDBG funds

REVIEWED AND APPROVED BY:

**Finance.
Administrator.
Clerk of Commission**

PROPOSED REPROGRAM FUNDS

COMMUNITY DEVELOPMENT BLOCK GRANT - \$615,273.93					
FROM	PROJECT #	AMOUNT \$	TO	PROJECT #	AMOUNT \$
AUGUSTA CANAL AUTHORITY PARK -Agency has not acquired property	07032	155,000.00	30901 CLINIC - Additional funds required for existing project	2007R/1546	133,000.00
GOLDEN HARVEST FOOD BANK - Agency has not located site for placement of kitchen equipment	07034	100,000.00	Beulah Grove Parking - Additional funds required for existing project	04032/1003	7,000.00
LIGHT OF THE WORLD NEIGHBORHOOD & ED	04069/1430	18,700.00	New Bethlehem Center -Additional funds required for existing project	04071/1468	18,842.50
FAÇADE REHABILITATION PROGRAM - uncommitted 1999 funds need to be reprogrammed to active projects	1999/1531	13,569.93	Apple Valley Park – Phase II - Additional funds required for existing project	04031	96,000.00
PROGRAM INCOME		328,004.00	Hope House - For transitional housing project on Highland Avenue	2007	183,431.43
			Laney-Walker Development Corporation – For capacity building (\$13,000 loan; \$17,000 grant)	2007	30,000.00
			Augusta Mini Theatre - construction	2007	100,000.00
			Augusta Mini Theatre – services	2007	25,000.00
			MACH Academy -Additional funds required for existing project	07037	22,000.00
TOTAL		\$615,273.93	TOTAL		\$615,273.93

ALSO, A CHANGE IN SCOPE OF WORK FOR THE FOLLOWING PROJECT IS BEING PROPOSED:

McDuffie Woods Community Center Improvements – Year 2007 (\$25,000) - Scope of project being changed from construction of walking track to construction of kitchen.

Reprogram Funds 09-18-07



**Administrative Services Committee Meeting
8/27/2007 12:45 PM
Stanley Brown**

Department: Clerk of Commission

Caption: Presentation by Mr. Stanley Brown regarding improper administrative actions in the Recreation Department.

Background:

Analysis:

Financial Impact:

Alternatives:

Recommendation:

**Funds are
Available in the
Following
Accounts:**

REVIEWED AND APPROVED BY:

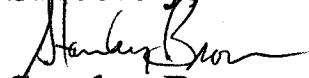
Clerk of Commission

Greetings Mrs. Bonner,

I would like address the Administrative Services Committee about the improper administrative actions of Tom Beck and Robert Howard. The administrator was told to discipline Tom Beck after the Commission's findings. Neither Tom nor Robert Howard were ever admonished or disciplined for not following the policy and procedures written in the City of Augusta's employee manual as it pertains to hiring and promotions. Tom is still using the qualifications that he created for Recreation Specialist II and III. Those qualifications were never approved by the Commission. Tom and Robert continue do whatever to whomever they want to and the Human Resources Dept. goes right along with it.

Ron Clark of "HR" claims to have investigated a recent grievance that I filed against Tom Beck and Robert Howard and didn't talk to me or the interview panel. Ron definitely did not meet with Tom, Robert and I. Oh, by the way I was selected for the job and Tom and Robert declined the recommendation. No one is monitoring Tom even though he is supposed to be on probation. Please give me an answer as soon as possible.

Sincerely,


Stanley Brown