



**AFFIRMATIVE ACTION (CONSTRUCTION WORKFORCE) POLICY
CHAPTER 68 BOND FINANCED SALE-LEASEBACK PROJECTS**

I. Port KC's Construction Workforce Program.

- A. Port KC has adopted a Construction Workforce Program to implement the Port KC's policy of supporting the fullest possible utilization of minority and women construction workers in Chapter 68 Bond Financed Sale-Leaseback Projects ("Bond Projects")

All Bond Projects (or if a phased Bond Project, each Phase thereof) shall be subject to the following goals, unless other goals have been expressly included in the agreements governing the Bond Project or the goals are otherwise waived, in whole or in part, pursuant to this policy:

Minorities	- 10%
Women	- 2%

The goals are expressed as a percentage of the total Construction Labor Hours performed by minorities and women in constructing a Bond Project (or if a phased Bond Project, each Phase thereof). By way of example only, if a total of 1,000 Construction Labor Hours are expended on a given Phase of a Bond Project, the minimum anticipated utilization of minorities and women construction laborers for the given Phase would be as follows: Minorities (100 hours); Women (20 hours). Although it is not a requirement that a Developer meet or exceed the goals, a Developer not doing so is required to objectively demonstrate to Port KC that good faith efforts have been made. This policy shall not be construed as requiring or encouraging that employment decisions be made, or that the terms and conditions of employment otherwise be altered, based upon race or gender.

- B. The following terms shall be defined as follows for purposes of the Construction Workforce Program:

Construction Labor Hour: A sixty minute period of time devoted by a worker in constructing any permanent building or structure for a Phase of a phased Bond Project.

Good Faith Waiver: A waiver that is granted by Port KC based upon a showing by Developer that despite undertaking in good faith the actions outlined in this policy, Developer was unable to achieve the goals.

Minority: A person who is a citizen or lawful permanent resident of the United States and who is:

- a. African American, a person whose origins are in any of the Black racial groups of Africa, and who has historically and consistently identified himself or herself as being such a person; or
- b. Hispanic American and/or Latino American, a person whose origins are in Mexico, Central or South America, or any of the Spanish speaking islands of the Caribbean, (for example Cuba and Puerto Rico) regardless of race, and who has historically and consistently identified himself or herself as being such a person; or

- c. Asian and/or Pacific Islander American, a person whose origins are in any of the original peoples of the Far East, Southeast Asia, the islands of the Pacific or the Northern Marianas, or the Indian Subcontinent, and who has historically and consistently identified himself or herself as being such a person; or
- d. Native American, a person having origins in any of the original peoples of North America, and who maintains tribal affiliation or demonstrates at least one-quarter descent from such groups, and who has historically and consistently identified himself or herself as being such a person.

Woman: A person who is a citizen or lawful permanent resident of the United States and who is a female.

II. Required Monthly Submissions.

- A. Developer must electronically submit the following documents to compliance@portkc.com by the tenth calendar day of each calendar month, commencing as of the calendar month immediately following the date of bond issuance and continuing each and every calendar month thereafter until such time as the Bond Project (or if a phased Bond Project, the applicable Phase thereof) has been fully completed as evidenced by Developer's submission of the Certificate of Completion:

Project Workforce Monthly Utilization Report (attached hereto). Two copies of this report must be submitted to the Port KC each month, The first copy will be utilized to report Developer's general contractor's workforce compliance data with regard to the Bond Project (or if a phased Bond Project, each Phase thereof). The second copy will be utilized to report consolidated workforce compliance data for every subcontractor retained by Developer's general contractor on the Bond Project (or if a phased Bond Project, each Phase thereof).

III. Methods for Securing Participation and Good Faith Efforts.

- A. In the event Developer does not meet Construction Workforce goals, the efforts taken by Developer will be evaluated to determine whether Good Faith Efforts were made to secure participation.
- B. **Evaluating Good Faith Efforts.** In evaluating Good Faith Efforts, Port KC will consider whether Developer has performed, or caused to be performed, the following, along with any other relevant factors:
 - 1. For those Developers with a general contractor that is not signatory to a collective bargaining agreement with organized labor:
 - a. Requested in writing the assistance of Port KC with respect to efforts to promote the utilization of minorities and women in the workforce and acted on Port KC's reasonable recommendations, if any; and
 - b. Advertised in minority or women trade association newsletters, or any other media meeting the requirements of Port KC's M/WBE Policy, at least fifteen (15) calendar days prior to the first utilization of any construction services for an applicable Phase and used terminology that sufficiently describes the work available, the pay scale, the application process, and anything else that one might reasonably be expected to be informed of relevant to the position being advertised; and
 - c. Maintained copies of each advertisement and a log identifying the publication and date of publication; and
 - d. Conducted real and substantial recruitment efforts, both oral and written, targeting minority and women community-based organization, schools with a significant minority student population, and training organizations serving the greater Kansas City metropolitan area; and

- e. Established and maintained a current list of resident, minority and women recruitment sources, providing written notification to the recruitment sources of available employment opportunities, and maintained records of the notices submitted to the organizations and any responses thereto; and
 - f. Maintained a current file for the time period of construction through the COO Date of the applicable Phase with the name, address, and telephone number of each minority and woman job applicant, the source of the referral, whether or not the person was hired, and in the event that the applicant was not hired, the reason therefore; and
 - g. Promoted the retention of minorities and women in its workforce with the goals of achieving sufficient annual hours for minorities and women to qualify for applicable benefits; and
 - h. Required by written contract that Developer's general contractor and subcontractors comply with the above efforts.
2. For those Developers with a general contractor that is signatory to collective bargaining agreements with organized labor:
- a. Requested in writing from each labor union representing crafts to be employed in the construction of a Phase of the Bond Project that: (i) The labor union make efforts to promote the utilization of minorities and women in the workforce; and (ii) The labor union identifies any minorities and women in its membership eligible for employment; and
 - b. Collaborated with labor unions in promoting mentoring programs for journeypersons intended to assist minorities and women in increasing retention with the goal of achieving sufficient annual hours to qualify for applicable benefits; and
 - c. Maintained a current file with the name, address, and telephone number of each resident, minority and woman worker identified by the labor union, whether or not the person was hired, and in the event the person was not hired, the reason therefore; and
 - d. Required by written contract that Developer's general contractor and subcontractors comply with the above efforts.

To the extent that the good-faith effort requirements set forth in this section are in conflict with the procedures implemented pursuant to a competitive bargaining agreement, such other procedures, as may be approved by Port KC in writing, may be substituted in order to accomplish the purpose and intent of this section.

- C. In the event Developer will be unable to secure enough minority and female participation to meet or exceed the goals, Developer must, within a reasonable time after so learning, request a waiver or modification of the Construction Workforce goals by Port KC. Port KC will examine the request and the documentation of Good Faith Efforts and grant or deny a waiver of the Construction Workforce goals, in whole or in part. Port KC will grant a waiver if Developer shows Good Faith Efforts have been made to secure minority and female participation in the construction of the applicable Phase of the Bond Project

IV. Access to Documents and Records

- A. Developer agrees to permit the Port KC's duly authorized agents or employees access at reasonable times to the applicable books and business records of Developer as may be necessary for the limited purposes of ascertaining compliance with the requirements of this policy. Developer shall require its general contractor to likewise make its and its subcontractors' applicable books and records available to the same extent as is applicable to Developer.

V. Remedies; Liquidated Damages

- A. Without limiting any other remedy available to Port KC under the Transaction Documents (as such term is defined within the Agreement to which this policy is attached), the failure to fully, accurately and timely complete and submit the Project Workforce Monthly Utilization Reports will result in Port KC sustaining damages, the exact extent of which would be difficult or impossible to ascertain. Therefore, in order to liquidate those damages, commencing as of twentieth calendar day of each month in which said reports are due, Port KC shall be entitled to impose upon and collect from Developer the sum of One Hundred Dollars (\$100.00) for each full or partial weekday (Monday through Friday) said reports remain overdue. Furthermore, and notwithstanding anything to the contrary in the Incentives Compliance Agreement or any exhibit thereto, in the event any reports required by this policy remains overdue for a period in excess of ninety (90) calendar days, Port KC may elect, in its sole discretion, to rescind, in whole or in part, any real and/or personal ad valorem property tax exemptions otherwise granted to Developer under the terms of the Transaction Documents for the calendar year in which the applicable reports were due, and the Developer shall be obligated to pay an amount equaling up to one hundred percent (100%) of the real and/or personal ad valorem property taxes that would have otherwise been due but for Port KC's ownership.
- B. If Developer fails to achieve the Construction Workforce goals as herein established and has not otherwise obtained a Good Faith Waiver approved by Port KC, Port KC will sustain damages, the exact extent of which would be difficult or impossible to ascertain. Therefore, in order to liquidate those damages, Port KC shall be entitled to recover from Developer the sum of twelve thousand dollars (\$12,000) per calendar year, commencing in the calendar year in which the bonds were issued and continuing each calendar year, or partial calendar year, thereafter until such time as the Bond Project (or if a phased Bond Project, the applicable Phase thereof) has been fully completed as evidenced by Developer's submission of the Certificate of Completion. In the event Developer has failed to submit the Project Workforce Monthly Utilization Reports as required by this policy for one or more given months, Port KC shall be entitled to assume that there were no Construction Labor Hours performed by minorities and women in constructing the Bond Project during the applicable reporting periods. The determination as to whether the Construction Workforce goals have been met, and the calculation of liquidated damages, if any, to be imposed pursuant to this paragraph B shall occur at such time as the construction shall be completed as evidenced by the submission of the Certificate of Completion; provided, however, if the Bond Project is being completed on a phased basis, such matters shall be determined and calculated on a phased basis at such time as the Completion of Construction with respect to each applicable Phase shall be achieved. Notwithstanding the foregoing, liquidated damages will not be imposed when, for reasons beyond the control of Developer, the Construction Workforce goals are not met and Developer otherwise establishes its Good Faith Efforts to the reasonable satisfaction of Port KC's President & CEO.
- C. Liquidated damages may be collected by Port KC in the form of an additive to the Additional Rent required pursuant to the terms of the Lease Agreement, or in such other manner as may be permitted by the express terms of the Transaction Documents. In no event will a failure to achieve the Construction Workforce goals constitute an event of default under any of the Transaction Documents or result in the termination of the Lease Agreement or Indenture or otherwise result in a suspension or forfeiture of any tax exemption granted thereunder, except as otherwise expressly provided in paragraph A of this Section V. Liquidated damages collected, if any, shall be applied to reimburse costs incurred by Port KC in administering compliance with this policy, with the balance being used to support efforts designed to increase the representation of minority and female workers in the construction trades.

V. Performance by Third Party

While the obligation to comply with this policy and liability hereunder shall reside at all times with Developer, Developer may elect to contractually require that its general contractor for the Bond Project (or if a phased Bond Project, each Phase thereof) act on Developer's behalf and submit such reports and documentation to Port KC as may be required by this policy, and Port KC will accept such actions, reports and documentation from such general contractor and shall regard the same as having been performed and submitted by Developer.

Affirmative Action Policy (Construction Workforce) Compliance

Month Ending ___/___/___

Project Name: _____

Phase Number, if applicable: _____

___ General Contractor ___ Consolidated Subcontractors

Total Construction Labor Hours during reporting period:

Total Construction Labor Hours to date:

Minority Construction Workforce Goal (Monthly Labor Hours): 0.00
 Minority Construction Workforce Goal (Cumulative Labor Hours): 0.00

Women Construction Workforce Goal (Monthly Labor Hours): 0.00
 Women Construction Workforce Goal (Cumulative Labor Hours): 0.00

Minority Construction Workforce	Monthly Labor Hours	Cumulative Labor Hours

Women Construction Workforce	Monthly Labor Hours	Cumulative Labor Hours