

April 1, 2021

**VIA ELECTRONIC FILING**

Brinda Westbrook-Sedgwick  
Commission Secretary  
Public Service Commission  
of the District of Columbia  
1325 "G" Street, NW, 8<sup>th</sup> Floor  
Washington, DC 20005

**Re: Supplier Diversity – Executed MOU**

Dear Ms. Westbrook-Sedgwick:

Washington Gas Light Company (“Company”) hereby submits the executed revised Supplier Diversity Memorandum of Understanding between the Company and the Public Service Commission of the District of Columbia.

Sincerely,



Cathy Thurston-Seignious  
Supervisor, Administrative and  
Associate General Counsel

Enclosure

cc: Rodney Wilson, Auditor, DC PSC  
Christopher Lipscombe, General Counsel, DC PSC

## EXECUTIVE SUMMARY

In September 2019, the Public Service Commission of the District of Columbia (“Commission”) notified the Potomac Electric Power Company, Washington Gas Light Company and Verizon, Washington DC Inc. (collectively, the “Utilities”) of its interest in modifying the existing contracting and procurement Memorandum of Understanding (“MOU”) related to supplier diversity. The Commission created and assembled the Advisory Council on Supplier and Workforce Diversity to advance this initiative. The Advisory Council was formed to provide advice and recommendations on areas related to improving diversity and inclusion within the energy workforce and utility suppliers in the District, with the task of revising the 2010 MOU, being central to driving results on supplier and workforce diversity issues. The Commission indicated its renewed desire to bring the provisions of the MOU into better alignment with District of Columbia law, D.C. Code § 2-218.13(2)(a) 2001 Ed., 2009 Supplemental, and its categorization of Local, Small, and Disadvantaged Enterprises contracting/procurement entities, among other concerns. The Commission also expressed its desire to include a commitment to workforce development and diversity in the revised MOU. In reaching out to the Utilities and other stakeholders, the Commission sought feedback on the advantages and disadvantages of various proposed elements of and proposed changes to the MOU, including but not limited to, reporting requirements and updated practices of the Utilities.

On November 12, 2020, the Chair and Co-Chair of the Advisory Council met with the Commission to develop the parameters of a revised MOU. The Chair and Co-Chair presented to the Chairman its proposed revisions for the MOU. Those revisions were developed over the course of a year of meetings of the Advisory Council and its dedicated working groups (Business Development and Outreach, Supplier Diversity and Job Training and Retention). The Utilities

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conferred to reach a consensus on the revisions. The Utilities reached an agreement in principle on the terms and conditions of this MOU and seek Commission acceptance of the revised MOU in its entirety. However, should the Commission want to make modifications to the MOU, the Utilities will review the proposed changes and submit a revised draft for execution.

The new MOU applies to contracting efforts with suppliers that are women, minority and veteran and service disabled-veteran-owned business enterprises, as well as not-for-profit entities organized to promote the interests of physically or mentally disabled individuals. In order to qualify under the aforementioned categories, the supplier must be certified by a third-party agent, or may be able to meet certain requirements enabling self-certification. While not requiring Utilities to use set-asides, preferences or quotas, the MOU encourages Utilities to employ a variety of initiatives designed to increase the pool of qualified diverse suppliers of products and services.

Pursuant to the MOU, the Utilities will set short-term, mid-term, and long-term goals for the utilization of diverse suppliers, where appropriate. The Utilities will document their performance through the filing of an annual report on supplier diversity. The report will include an overall summary of diverse supplier spend, as well as the District of Columbia spend, with breakdowns by diverse supplier categories compared with total Utility dollars spent on goods and services covered by the MOU. In addition to filing an annual report, Utilities will also file an annual plan that demonstrates how the Utility will achieve the goals that it has set. The Utilities commit to an annual legislative style hearing to present the findings of its annual report and to receive input from participants.

The revised MOU incorporates several changes from the 2010 version that immediately preceded it.

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Among other things, the revised MOU:

- Returns the designation of “veterans” as diverse suppliers in addition to the distinction for “service-disabled veterans”.
- Includes the designation of LGBT owned enterprises as diverse suppliers.
- Tracks the D.C. Code definition of Certified Business Enterprise (CBE).
- Uses the term “diverse supplier” to include all eligible entities.
- Tracks total utility procurement spend, which are those opportunities for sourcing goods/services which are not listed on Schedule 2. Directs that annual goals be set for the various categories of diverse suppliers as a percent of the total utility procurement spend.
- Directs that annual goals be set for various categories of diverse suppliers as a percent of the total utility procurement spend (as defined above).
- Includes 2nd tier dollars as a separate line item as part of the total diverse spend. 2nd tier dollars is spend reported by the utility’s (non-diverse-Major) vendors with diverse subcontractors, if the following applies:
  - Purchases/contracts exceed \$550,000 for products and services;
  - Construction contracts exceed \$1,000,000 and
  - Purchases/contracts which offer diverse supplier subcontracting opportunities, regardless of value, when deemed appropriate by the Utility.
- Requires third-party certification of ownership within one year of the date of the execution of the MOU or the date of the first invoiced spend, whichever occurs later.
- Includes a commitment to workforce diversity and development from the Utilities.

While the newly revised District of Columbia MOU is similar to that which is followed by Maryland utilities in the context of their regulatory structure, some differences remain and some elements are now adopted:

- Revised MOU now designates an aspirational goal of 25% diverse spending;
- Definition of diverse supplier includes CBEs;
- Annual Attachments were removed;

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- Attachments to the Annual Report and Plan reflect CBE data; and
- Revised MOU will allow an annual hearing before the Commission to review program results.

Utilities are expected to provide diverse suppliers with the maximum opportunity to participate in and compete for contracts and subcontracts in the Utility's supply chain for goods and services that support the Utility.

The initial MOU goals that will be provided by the Utilities are intended to be baseline benchmarks. Accordingly, Utilities are encouraged to exceed their goals, and to explore other avenues of increasing diverse supplier spend. While the MOU will result in the provision of benchmarks, it remains a voluntary commitment, whereby, the failure to adhere will not result in legal recourse by any party.

### **I. INTRODUCTION**

This MOU between the Commission and Washington Gas Light Company ("Utility" or "Washington Gas") memorializes the understanding that the Utility voluntarily will develop, implement, and consistently report on its activities and accomplishments in promoting a strategy designed to create viable and prosperous women, minority, LGBT, and veteran and service-disabled-veteran-owned business enterprises, as well as not-for-profit entities, as defined under section 1.2.6.a ("Diverse Suppliers") by providing them with the maximum opportunity to participate in and compete for contracts and subcontracts in the Utility's supply chain for goods and services that support the Utility. Under the MOU, the Utility also will encourage and assist, when reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors. The Utility's activities shall be conducted consistent with reasonable and competitive procurement practices and consistent with the Utility's obligation to ensure that

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utility services are provided to the ratepayers in the District of Columbia at just and reasonable rates.

The goal of the Utility shall be to maximize opportunities for Diverse Suppliers, with special attention to District of Columbia suppliers, for the Utility's total dollar spend for the Utility's contracts, subcontracts, and purchase orders for products and services governed by this MOU. The Commission and the Utility anticipate that the Utility will consistently work towards this goal; however, the Commission and the Utility recognize that Utility participation is voluntary and progress towards the goal is dependent upon, and affected by, the availability of competitive Diverse Suppliers. The Commission and the Utility agree that, in its efforts to achieve its Diverse Supplier objectives, the Utility shall not be limited to District of Columbia-based Diverse Suppliers; provided that the Utility shall make a good faith effort to utilize District of Columbia-based Diverse Suppliers.

To implement this strategy, the Utility will develop and implement procedures and reporting requirements consistent with this MOU to ensure that Diverse Suppliers have the maximum opportunity to compete for the Utility's contracts and subcontracts for the purchase of all goods and services governed by this MOU, including, but not limited to, equipment, supplies, materials, construction ventures, legal, accounting and financial services, technology-related research and development, testing, and other procurable goods and services and to encourage and assist, where reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors. This MOU supersedes and replaces, in its entirety, any and all memoranda previously executed by the Utility and the Commission regarding this matter and is applicable until amended, terminated, or replaced by a new MOU or by District of Columbia or federal law.

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Through this MOU, the Utility renews its commitment to facilitate contracting opportunities for Diverse Suppliers. The Utility agrees to review both its existing procurement and Diverse Supplier procurement programs on an annual basis, and, where needed, modify its programs and inform the Diverse Supplier community of material changes, with the goal of further ensuring that Diverse Suppliers will have the maximum opportunity to participate and succeed in the competition for contracts for goods and services. Finally, the Utility and the Commission agree that this MOU may be revised from time to time, with the consent of both parties, as experience is gained in its application.

### **II. STANDARDS**

#### **1. General**

##### **1.1. Intent**

1.1.1. Economic Impact. This MOU shall not be used to require Diverse Suppliers to accept contractual provisions at wages for the Diverse Suppliers' employees that are less than the prevailing wage for the type of service provided. Similarly, this MOU shall not be used to require the Utility to accept anything other than the best evaluated bid.

1.1.2. Revisions of Scope. This MOU may be revised on the basis of experience gained in its application and/or changes in legislation. Either the Utility or the Commission may propose amendments to this MOU. Any such proposal shall clearly set forth the changes proposed and the supporting rationale.

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### 1.2. Definitions

- 1.2.1. "Certification" means the determination that a legal entity is controlled and operated by one or more of the Socially and/or Economically Disadvantaged Individual(s) who own it.
- 1.2.2. "Certified Diverse Supplier" or Certified Business Enterprise means a Diverse Supplier that holds a Certification.
- 1.2.3. "Commission" means the Public Service Commission of the District of Columbia, as provided for in the District of Columbia Code.
- 1.2.4. "Complaint" means a written objection either to a decision not to utilize a Diverse Supplier or to a Diverse Supplier's treatment once it is selected by the Utility to perform a contract, which is directed to the Utility's executives or is referred to the Utility by the Commission.
- 1.2.5. "Control" means exercising the power to make policy decisions.
- 1.2.6. "Prime Contractor" or "Tier I Contractor" means any party or person (who is not an employee of the Company) who enters into any agreement or arrangement with a Company for the furnishing of supplies or services for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts.



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1.2.7. “Subcontractor” or “Tier II Contractor” means any party of person (who is not an employee of the Prime Contractor) who enters into any agreement or arrangement with a Prime Contractor:

- (i) For the furnishing of supplies or services for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or
- (ii) Under which any portion of the Prime Contractor’s obligation under any one or more contracts is performed, undertaken or assumed.

1.2.8. “Tier II Indirect Spend” means expenses incurred for materials, services and maintenance required by the Prime Contractor to operate the business.

1.2.9.a. “Diverse Supplier” includes women, minority, LGBT service disabled and veteran-owned business enterprises, as well as a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals.

1.2.9.b. “Diverse Supplier” means any legal entity that is:

- (i) organized to engage in commercial transactions;
  - (ii) at least 51% owned and Controlled and operated by one or more individuals who are Economically and/or Socially Disadvantaged;
- and,

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- (iii) managed by, and the daily business operations of which are Controlled by, one or more of the Economically or Socially Disadvantaged Individuals who own it.

1.2.10. “Economically or Socially Disadvantaged Individual” means an individual whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged, or an individual who has been subjected to racial or ethnic prejudice or cultural bias within American society because of membership in a group and without regard to individual qualities. Social disadvantage must stem from circumstances beyond the control of the individual and is based on racial, ethnic, gender, religious or other orientation.

- (i) These individuals are citizens or lawfully admitted permanent residents of the United States who are in any of the following minority groups:
  1. African-American - an individual having origins in any of the Black racial groups of Africa;
  2. American Indian/Native American - an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe or band, or otherwise has a special relationship with the United States or a

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state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and includes an individual of Eskimo and Aleutian origin.

3. Asian - an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent;
4. Hispanic - an individual of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;
5. Veteran – an individual who has served in any branch of the military who has been honorably discharged and service-disabled veteran - a veteran who possesses a disability rating letter issued by the Department of Veterans Affairs, establishing a service-connected rating between 0 and 100% (as determined by the Department of Veteran Affairs) or a disability determination from the Department of Defense
6. Women - a woman, regardless of race or ethnicity; or
7. LGBT- an individual identifying as Lesbian, Gay, Bisexual or Transgender (LGBT).
8. Otherwise found by a Third-Party Certifying Agent to be an Economically or Socially Disadvantaged Individual.

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- 1.2.11. “Goal” means a target which, when achieved, indicates progress in a preferred direction. A Goal is neither a quota, a set-aside, nor a mandatory obligation.
- 1.2.12. “Long-term Goal” means a Goal applicable to a period of five (5) years.
- 1.2.13. “Mid-term Goal” means a Goal applicable to a period of three (3) years.
- 1.2.14. “Minority Business Enterprise” (“MBE”) means that subset of Diverse Suppliers that are owned, operated, and Controlled, and by individuals included in Section 1.2.10(i)(1) -(8).
- 1.2.15. “NAICS Codes” means the North American Industry Classification System. For purposes of this MOU, the Utility has agreed to utilize the three-digit NAICS Codes.
- 1.2.16. “Operate” means being actively involved in the day-to-day management and not merely acting as officers or directors.
- 1.2.17. “Prime Contractor” means any party or person (who is not an employee of the Utility) who enters into any agreement or arrangement with a Utility for the furnishing of goods or services.
- 1.2.18. “Service-Disabled-Veteran Business Enterprise” and “Veteran Business Enterprise” means that subset of Diverse Suppliers that

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are owned, operated, and controlled by individuals included in Section 1.2.10(i)(5).

1.2.19. “Short-term Goal” means a Goal applicable to a period of one (1) year.

1.2.20. “Subcontractor” means any party or person (who is not an employee of the Prime Contractor) who enters into any agreement or arrangement with a Prime Contractor for the furnishing of goods or services as necessary to the performance of any one or more contracts.

1.2.21. “Third-Party Certification” means Certification by a Third-Party Certifying Agent.

1.2.22. “Third-Party Certifying Agent” means an entity that is included on the list maintained by the Commission pursuant to Section 2 of this MOU.

1.2.23. “Women Business Enterprise” means that subset of Diverse Suppliers that are owned, operated, and controlled by individuals included in Section 1.2.10(i)(6).

1.2.24. “LGBT Business Enterprise” means that subset of Diverse Suppliers that are majority (at least 51%) owned, operated, controlled, and managed by individuals included in Section 1.2.10(i)(7) who exercise independence from any non-LGBT enterprise.

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### 2. Certification

2.1. The Commission shall establish and maintain a list of Third-Party Certifying Agents, attached hereto as Schedule 2. The Utility shall periodically review and provide to the Commission, as needed, revisions to the list of Third-Party Certifying Agents included in Schedule 2.

2.2. Except as provided by Sections 2.2.1 and 2.2.2, in order to qualify as a Diverse Supplier for purposes of this MOU, the Diverse Supplier must be certified by one of the Third-Party Certifying Agents specified in Section 2.1. The Diverse Supplier need only obtain Certification from one of the Third-Party Certifying Agents in order to be a Certified Diverse Supplier for purposes of this MOU.

2.2.1. A business enterprise that has not obtained Certification from a Third-Party Certifying Agent pursuant to Section 2.1 shall qualify as a Diverse Supplier, provided that it certifies to the Utility, in writing and under penalties of perjury, that it meets the definition of a Diverse Supplier. Unless Section 2.2.2 applies, this exemption from the requirements of Section 2.1 shall be limited to one year from the date of execution of the MOU, or the date of the first invoiced spend, whichever occurs later.

2.2.2. A business enterprise that receives less than \$25,000 in annual gross revenues from the Utility that has not obtained Certification from a Third-Party Certifying Agent pursuant to Section 2.1 shall qualify as a Diverse Supplier, provided that it certifies to the Utility,

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in writing and under penalties of perjury, that it meets the definition of a Diverse Supplier.

2.3. The Utility may specify that it will only accept Certification from specific Third-Party Certifying Agents.

2.4. A Third-Party Certifying Agent's auditing and verification program shall preclude the need for the Utility to audit and verify the status of the Diverse Suppliers with which it does business.

### 3. Utility Implementation

The Utility's Diverse Supplier program shall be designed to ensure that Diverse Suppliers are encouraged to become potential suppliers of products and services to the Utility subject to this MOU. Nothing in this MOU requires the Utility to utilize set-asides, preferences, or quotas.

#### 3.1. Internal Utility Program Development

The Utility shall maintain a staff to provide overall Diverse Supplier program direction and guidance and to implement Diverse Supplier program requirements.

#### 3.2. External Outreach

The Utility shall implement an outreach program to inform and recruit Diverse Suppliers to apply for procurement contracts.

3.2.1. The outreach activities depend on the Utility's size, service territory, and specific lines of business. However, the Utility shall at a minimum:

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- (1) Actively seek out opportunities such as hosting events like Vendor Day; Industry Outreach and Networking; How to Do Business Meetings and Pre-Bid conferences for projects to identify Diverse Supplier contractors and to expand Diverse Supplier source pools.
- (2) Actively support the efforts of organizations experienced in the field who promote the interests of Diverse Supplier contractors such as the National Minority Supplier Development Council, the Women's Business Enterprise National Council, the United States Hispanic Chamber of Commerce, the United States Black Chamber of Commerce, the Small Business Administration, the United States Pan-Asian Chamber of Commerce, National Utilities Diversity Council, American Council of Engineering Companies, National Utility Contractors Association and others.
- (3) Host a quarterly internal orientation and networking presentation to work with Diverse Supplier contractors to facilitate events to develop relationships with utility staff and explain utility qualification requirements, bid and contracting procedures, material requirements, invoicing and the payment schedules and other procurement practices and procedures for contracting opportunities. For the duration of the COVID 19 pandemic, the utilities should commit to hosting virtual events for safety.
- (4) At the request of any unsuccessful Diverse Supplier bidder, if disclosure would not violate the proprietary nature of the request for



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bid proposal or other contracting process or internal process, provide general information concerning the range of differences between the Diverse Supplier contractor's bid as contrasted with the successful bid. Information on additional selection criteria, such as warranty periods, maintenance costs, and delivery capability, shall be provided when requested if disclosure would not violate the proprietary nature of the request for bid proposal or other contracting process or internal process or, to the extent possible, specific contract elements. The Utility need not provide this information if only two companies (including the Diverse Supplier) bid on the contract.

- (5) To the extent possible, to offer the best opportunity for success the Utility will include Diverse Suppliers in Utility requests for proposals and contract/purchase opportunities as they become available for public release.
- (6) When efficient or cost-effective, encourage employees involved in submitting specifications for Utility procurements to unbundle and break apart purchases and contracts to accommodate the inclusion of Diverse Suppliers based on their capabilities.
- (7) Summarize the Utility's Diverse Supplier Program in the Utility's outreach and marketing program literature submitted to vendors and the business community. Such summaries shall state that the Diverse Supplier will be furnished a complete copy of this MOU upon

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request. Such summaries shall encourage the participation of Diverse Suppliers as Prime Contractors and Subcontractors, where appropriate.

- (8) Encourage all Prime Contractors to attend Utility planned networking and vendor outreach events to develop and maintain relationships with Diverse Supplier Subcontractors.
- (9) Encourage cooperation between non-Diverse Supplier and Diverse Supplier contractors such as matching events and other growth opportunities.
- (10) Work to maximize the retention of Diverse Supplier contractors so that the Utility's procurement planning and supply chain management program articulates the Goal of building sustainable and reliable service delivery by the Diverse Supplier to the Utility or the Prime Contractor for the life of the contract.

### 3.3. Subcontracting Program

The Utility may establish and maintain a subcontracting program for the purpose of encouraging its Prime Contractors to utilize Diverse Supplier Subcontractors.

- 3.3.1. The subcontracting program shall serve as an enhancement to, and not as a replacement for, the Utility's Diverse Supplier Prime Contractor outreach program.

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3.3.2. To the extent subcontracting is permitted under the Prime Contract, the subcontracting program generally applies to the following:

- (1) Purchases/contracts exceeding \$550,000 for products and services;
- (2) Construction contracts exceeding \$1,000,000 and
- (3) Purchases/contracts which offer Diverse Supplier subcontracting opportunities, regardless of value, when deemed appropriate by the Utility.

3.3.3. The Utility shall encourage and assist, where reasonable, its Prime Contractors to develop plans to increase the utilization of Diverse Suppliers as Subcontractors.

3.3.4. The Utility shall incorporate in its requests for bid proposals and other appropriate procurement documents related to procurement efforts subject to the subcontracting program, a statement like the following:

“It is the policy of the Utility that Diverse Suppliers shall have the maximum practicable opportunity to participate in the performance of contracts. However, this policy shall not be used to exclude qualified non-Diverse Suppliers from participating in Utility contracting.”

- (1) The awarded Prime Contractor shall agree to use his or her best efforts to carry out this policy in the award of subcontracts (to the

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extent subcontracting is permitted) to the fullest extent consistent with the efficient performance of this contract.

3.3.5. The Utility is encouraged to inform suppliers of products and services that suppliers' good faith efforts to subcontract with Diverse Suppliers may be considered in the bid evaluation process. A statement to that effect may be included in all appropriate procurement documents.

3.3.6. The Utility shall include in its annual plan a description of future plans for encouraging Prime Contractors to engage Diverse Supplier Subcontractors in all procurement categories covered by this MOU which provide subcontracting opportunities.

3.3.7. The Utility shall include (as a separate category) spend with Diverse Supplier Subcontractors in its Annual Report.

### **4. Diverse Supplier Complaint Process**

4.1. The Utility shall maintain a process for receiving and reviewing Diverse Supplier procurement-related Complaints.

4.2. The Commission notes that it does not exercise jurisdiction over the Diverse Supplier procurement-related Complaints.

### **5. Goals**

5.1. For Calendar year 2021, Washington Gas's goal for diverse spend as a percentage of total utility procurement is 25.0%. For Certified Business Enterprises, spend

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as a percentage of total utility procurement is 10%. The Utility shall set substantial and verifiable Short-Term, Mid-Term, and Long-Term Goals for the utilization of Diverse Suppliers in its Annual Plan, as provided under Section 7, keeping in mind that the Goal of this voluntary MOU is to facilitate and encourage maximizing competitive contract awards to Diverse Suppliers of the total dollars spent, including District of Columbia spend, on all Utility contracts, subcontracts and purchase orders covered by this MOU. This goal-setting process may include specific Goals for women, minority, LGBT and veteran owned and service-disabled-veteran-owned business enterprises. For not for profit entities, the Utility shall make its best efforts to advance opportunities for contracting.

5.1.1. The Utility and the Commission agree that natural gas procurement shall not be subject to the same Goals that are articulated by the Utility pursuant to Section 5.1. For calendar year 2021, Washington Gas's goal for diverse spend as a percentage of natural gas procurement is 11%. For Certified Business Enterprises, spend as a percentage of natural gas procurement is .25%. The Utility shall set substantial and verifiable Short-Term, Mid-Term, and Long-Term Goals for the utilization of Diverse Suppliers for natural gas procurement in its Annual Plan.

5.1.2. The first year of reporting will establish the benchmark for setting future Short-Term, Mid-Term, and Long-Term Goals and plans.

5.2. The Utility shall consider the following factors in setting its Goals:

5.2.1. Total Utility purchasing and/or contracting projections;

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- 5.2.2. Availability of Diverse Suppliers and competitiveness throughout the Utility's service territory and the United States;
  - 5.2.3. Market dynamics based on historical data and trends; and
  - 5.2.4. Other appropriate factors which would increase the Diverse Suppliers' share of Utility business.
- 5.3. A Utility may only exclude those products and services, and the corresponding expenditures, contained on Schedule I to this MOU, from its total amount of dollars spent on procurement. Goods and services are included on Schedule I because they are non-sourceable (payments the Utility makes where there is no opportunity to source, e.g., taxes, permits and fees), are subject to a regulated purchase process, or because the Utility has otherwise persuaded the Commission that it is appropriate to include those goods and services on Schedule 1.
- 5.3.1. Future proposed additions to Schedule I shall be made by the Utilities and included at the Commission's discretion.
  - 5.3.2. The Utility and the Commission shall review Schedule 1, as necessary, for the express purpose of determining whether any of the goods and services should be removed from Schedule 1.
  - 5.3.3. The Utility may exclude from its total amount of dollars spent on procurement any dollars spent on contracts in effect at the time of the execution of this MOU that have a remaining term of two (2) or more years.

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- 5.4. Overall program Goals shall be expressed in dollar amounts and as a percentage of total dollars spent by the Utility on goods and services covered by this MOU.
- 5.5. The Utility shall make good faith efforts to increase utilization and encourage entry into the marketplace of Diverse Suppliers in product or service categories where there has been low utilization of Diverse Suppliers, such as legal and financial services, public relations and government affairs, and areas that are considered technical in nature.
- 5.6. The Utility shall make good faith efforts regarding workforce diversity and development to encourage more opportunities for Diverse Suppliers and Certified Business Enterprises including incorporating training programs such as the DC Infrastructure Academy to prioritize training and employing District residents, utilizing mentor/mentee programs to help ensure successful employment with the utility or diverse supplier, and defining employment requirements without creating unnecessary barriers.
- 5.7. The Utility shall report its Goals in its annual plan.

### **6. Annual Report**

- 6.1. The Utility shall file its Annual Report on its Diverse Supplier Program with the Commission's Secretary, by March 31 of each year, beginning in 2021, for the previous calendar year.
- 6.2. The Annual Report shall contain at least the following elements:

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6.2.1. A description of Diverse Supplier program activities engaged in during the previous calendar year. This description shall include both internal and external activities.

6.2.2.

- a. An overall summary of total Diverse Supplier spend, and District of Columbia spend, with breakdowns by diverse suppliers, compared with total Utility dollars spent on goods and services covered by this MOU.
- b. A summary of total Diverse Supplier spend, and District of Columbia spend, by NAICS Code, with breakdowns by Diverse Suppliers within each NAICS Code, compared with total Utility dollars spent within that NAICS Code on goods and services covered by this MOU.
- c. A comparison of (1) the actual dollars spent with Minority Business Enterprises, Women Business Enterprises, Service- Disabled Veteran Enterprises, Not-for-Profits and District of Columbia CBEs on goods and services covered by this MOU with (2) the Goals for each type of business enterprise set pursuant to Section 5.1.
- d. Throughout this MOU, the Utility shall report its spend, such that each dollar spent may only be reported once in the category section of MBE, WBE, VBE, SDVBE, LGBT or Not-for-Profit and once in each District of Columbia CBE section.



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- 6.2.3. A description of progress in meeting or exceeding set Goals and an explanation of any circumstances that may have caused the Utility to fall short of or exceed its Goals. The Utility shall include a comprehensive discussion and detailed description of any efforts made to recruit Diverse Suppliers of products or services in areas that are traditionally underserved by Diverse Suppliers. The Utility may also explain in detail in its annual report how its ability to meet its Diverse Supplier Goals is affected because Diverse Suppliers capable of supplying certain products and services are unavailable or uncompetitive.
- 6.2.4. A description of Prime Contractor utilization of Diverse Supplier Subcontractors.
- 6.2.5. A list identifying each Diverse Supplier and District of Columbia Based Certified Business Enterprise (CBE) that received payment for contract products/service for the reporting year, the NAICS Code(s) for the products/services provided, and the dollar amount paid to the vendor for the reporting year.
- 6.2.6. A description of any efforts made to recruit Diverse Suppliers of products or services in NAICS Code categories where Diverse Supplier utilization has been low, such as legal, accounting, auditing, underwriting, technology, testing, research and development, construction, demolition, financial services, public

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relations and government affairs, and other venture areas that are considered highly technical in nature.

- 6.2.7. A list identifying Local, Small and Disadvantaged District of Columbia based CBE vendors that received payments for Professional Services covered by this MOU for the reporting year, the product/service provided, the total Non CBE District of Columbia based professional services vendors, and a comparison of the breakdown. The Utility should, if able, explain the fluctuation in percentage changes between the years.
- 6.2.8. The Utility shall retain all documents and data it relies on in preparing its Diverse Supplier annual report for the longer of either three (3) years or in conformance with the Utility's individual document retention policies, and shall provide these documents and data to the Commission upon request.
- 6.3. This MOU is not intended to permit erosion of Diverse Supplier programs and reporting presently engaged in by the Utility.
- 6.4. Nothing in this MOU shall prohibit the Utility from breaking down specific categories further than presently required (for example, reporting dollars spent with Filipino Americans separately from those spent with Asian Pacific Americans or reporting male and female results within minority-owned classifications).

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6.5. The Utility will also provide a breakdown of spend for District of Columbia suppliers consistent with the designated categories in the District of Columbia Code. This breakdown will include for District of Columbia suppliers an accounting of those who are Certified Business Enterprises (CBEs), defined as businesses certified by the Department of Small and Local Business Development as follows: Disadvantaged Business Enterprises (DBEs), Local Business Enterprises (LBEs), Longtime Resident Business (LRBs), Resident owned Business (ROBs), Development Enterprise Zone (DZE) and Small Business Enterprises (SBEs) as defined by the District of Columbia Code and the District of Columbia Small and Local Business Development office.

6.6. The Utility will provide a description of its annual efforts related to workforce development and diversity.

### **7. Annual Plan**

The Utility shall file its Annual Plan, as described in this Section 7, with the Commission's Secretary on March 31 following the beginning of its fiscal year, beginning in 2021.

7.1. The Annual Plan shall contain at least the following elements:

7.1.1. Short-, Mid-, and Long-Term Goals set as required by Section 5, supra;

7.1.2. A description of Diverse Supplier program activities planned for the next calendar year. This description shall include both internal and external activities;

## MEMORANDUM OF UNDERSTANDING

- 7.1.3. Plans for recruiting Diverse Suppliers of products or services where Diverse Supplier utilization has been low, such as legal and financial services, and areas that are considered highly technical in nature;
- 7.1.4. Plans for seeking and/or recruiting Diverse Suppliers of products or services where Diverse Suppliers are currently unavailable; and
- 7.1.5. Plans for encouraging Prime Contractors to engage Diverse Suppliers in subcontracts in all categories which provide subcontracting opportunities.

### **8. Hearing**

- 8.1. The Commission may hold a legislative-style hearing on the Utility's Annual Report and Annual Plan in the second quarter of the year.

### **9. Jurisdiction and Authority**

- 9.1. The Utility has entered this MOU voluntarily. Nothing herein will be construed as bestowing jurisdiction, not otherwise conferred by applicable law, upon the Commission in those subject areas encompassed by the MOU; nor will the signing of this MOU constitute or be construed as a waiver of the Utility's right to legally challenge the Commission's jurisdiction or statutory authority in the future should the Commission assert such jurisdiction or authority over the subject matter herein.

## MEMORANDUM OF UNDERSTANDING

### **10. No Additional or Private Rights Created**

10.1. Nothing herein will be construed as creating, either directly or indirectly, a private right or remedy for any person not a party to this MOU. Furthermore, nothing herein will be construed as creating or imposing either directly or indirectly upon any party to this MOU, a legal or contractual duty or obligation not otherwise imposed by existing law.

### **11. Termination**

11.1. As the Commission and the Utility have entered into this MOU voluntarily, either the Commission or the Utility may terminate this MOU at any time by providing written notice of such termination to the other. Notwithstanding any such termination of the MOU, if the Commission or the Utility obtained any confidential or otherwise proprietary information from the other through any process facilitated by the MOU prior to its termination, then the Commission or the Utility shall continue to preserve the confidentiality and proprietary nature of such information following the termination to the same extent as if the MOU had not been terminated.

**MEMORANDUM OF UNDERSTANDING**

**12. Signatures**


This Memorandum of Understanding is entered into this 31<sup>st</sup> day of March, 2021, by the undersigned parties.

PUBLIC SERVICE COMMISSION OF  
THE DISTRICT OF COLUMBIA

By:  \_\_\_\_\_

Chairman

WASHINGTON GAS LIGHT COMPANY

By:  \_\_\_\_\_

Donald "Blue" Jenkins  
President and CEO

## Schedule 1

### Non-sourcable Spend Categories:

Board of Director's fees  
Employee medical benefits  
Employee tuition aid benefits  
Employee benefits, other  
Employee garnishments  
Employee payroll  
Employee reimbursements  
Claims  
Contributions  
Electric power interchange  
Energy rebates  
Organization membership dues  
Philanthropic contributions  
Tax payments, all  
Utilities, telephone, electricity, water  
Voucher transfers  
Business travel expenses  
Permits and fees  
Freight charges on invoices  
Payments to government entities  
Pipeline transmission  
Purchases from affiliates  
Natural gas capacity contracts  
Dividend payments  
Payments to subsidiary operations  
Rail Transportation  
Standard Offer Service Procurement  
Purchase or lease of real property  
Purchase of carbon credits  
Network access or other communications intercarrier compensation (any mode)

## Section 2

### STATE/ ASSOCIATION

### CERTIFYING ORGANIZATION

Alabama	State of Alabama
Alabama	Birmingham Airport Authority
Alabama	South Regions Minority Business Council
Alabama	Alabama Department of Transportation (ALDOT)
Alaska	Alaska DOT
Arizona	State of Arizona
Arizona	City of Phoenix
Arizona	City of Tucson
Arizona	Arizona DOT
Arizona	Grand Canyon Minority Supplier Development Council
Arkansas	Arkansas DOT
Arkansas	State of Arkansas
Arkansas	Arkansas Department of Economic Development
Arkansas	Arkansas Regional Minority Supplier Development Council
California	California San Francisco Bay Area Rapid Transit (BART)
California	City of San Francisco
California	City of Sacramento
California	Bay Area Rapid Transit (BART)
California	Contra Costa County
California	Los Angeles County
California	Los Angeles County Metropolitan Transportation Authority (LA MTA)
California	City of Los Angeles
California	City of Oakland (CA Oakland)
California	Port of Oakland
California	Caltrans (California Unified Certification Program)
California	California Public Utilities Commission (CPUC)
California	Southern California Metropolitan Transit Authority (MTA)
California	Department of General Services Certified Disabled Veteran Enterprises
California	Southern California Minority Business Development Council
California	Northern California Supplier Development Council
California	Greater San Diego Business Development Council
Colorado	Regional Transportation District
Colorado	Colorado DOT
Colorado	City and County of Denver
Colorado	State of Colorado Office of Economic Development and International Trade
Colorado	Rocky Mountain Minority Supplier Development Council



## Section 2

Connecticut	Connecticut Department of Administrative Services (DAS)
Connecticut	City of Hartford
Connecticut	Connecticut DOT
Connecticut	Connecticut Minority Supplier Development Council
Delaware	State of Delaware
Delaware	City of Wilmington
District of Columbia	Washington Metropolitan Area Transit Authority
District of Columbia	Washington Metro Airport Authority
District of Columbia	DSLBD
District of Columbia	Maryland/DC Minority Supplier Development Council
Florida	Miami-Dade County
Florida	City of Miami
Florida	State of Florida
Florida	South Florida Water Management District
Florida	City of Ft. Lauderdale
Florida	City of Tampa
Florida	Orange County
Florida	Duval County School District
Florida	Lee County Port Authority (LCPA)
Florida	Lee County
Florida	Hillsborough County
Florida	Hillsborough County Aviation Authority at Tampa Airport
Florida	City of Tallahassee
Florida	City of Orlando
Florida	Greater Orlando Aviation Authority
Florida	Jacksonville Transportation Authority
Florida	Jacksonville Electric Authority
Florida	Jacksonville Port Authority
Florida	City of Jacksonville
Florida	Florida DOT
Florida	Florida Regional Minority Business Council (Miami)
Florida	Florida Minority Supplier Development Council (Orlando)
Florida	School Board of Broward County
Florida	Broward County
Florida	The North Broward Hospital District
Florida	Alachua County
Florida	City of Jacksonville
Florida	Leon County
Florida	Palm Beach County
Florida	THE SCHOOL DISTRICT OF PALM BEACH COUNTY
Florida	City of St. Petersburg

## Section 2

Georgia	Georgia DOT
Georgia	City of Augusta
Georgia	City of Atlanta
Georgia	City of Gainesville
Georgia	City of Savannah
Georgia	State of Georgia
Georgia	Fulton County
Georgia	Metropolitan Area Rapid Transit Authority (MARTA)
Georgia	Georgia Minority Supplier Development Council
Hawaii	Hawaii DOT
Idaho	Idaho DOT
Illinois	Chicago Minority Business Development Council
Illinois	State of Illinois (CMS)
Illinois	City of Chicago
Illinois	Cook County
Illinois	Chicago Transit Authority
Illinois	Pace Bus
Illinois	Illinois DOT
Indiana	City of Indianapolis
Indiana	State of Indiana
Indiana	Vanderburgh County/City of Evansville
Indiana	City of Ft. Wayne
Indiana	Indiana Regional Minority Supplier Development Council
Iowa	Iowa DOT
Iowa	State of Iowa Targeted Small Business Certification program (Iowa TSB)
Kansas	Kansas DOT
Kansas	Kansas Department of Commerce
Kentucky	City of Louisville
Kentucky	Louisville Metro
Kentucky	Commonwealth of Kentucky
Kentucky	Kentucky DOT
Louisiana	Louisiana/Dept. of Economic Development
Louisiana	Louisiana/Division of Small & Emerging Business Development
Louisiana	The State of Louisiana's Unified Certification Program
Louisiana	City of Shreveport
Louisiana	City of New Orleans
Louisiana	Louisiana Minority Business Council
Maine	Maine DOT
Maryland	Maryland DOT
Maryland	Anne Arundel County
Maryland	Howard County

## Section 2

Maryland	City of Baltimore
Maryland	Maryland/DC Minority Supplier Development Council
Massachusetts	Mass Housing
Massachusetts	State of Massachusetts (SOWMBA)
Massachusetts	City of Boston
Massachusetts	City of Cambridge
Massachusetts	New England Supplier Development Council
Michigan	City of Detroit
Michigan	City and County of Kalamazoo
Michigan	City of Grand Rapids
Michigan	Washtenaw County
Michigan	Genesee County
Michigan	Wayne County
Michigan	Michigan Minority Business Development Council
Michigan	Michigan DOT
Minnesota	City of Minneapolis
Minnesota	Minnesota United Certification Program
Minnesota	Minnesota Department of Administration, Materials Management Division (MN MMD)
Minnesota	State of Minnesota
Minnesota	Minnesota Minority Supplier Development Council
Mississippi	Mississippi DOT/Unified Certification Program
Mississippi	Mississippi Development Authority (MS MDA)
Missouri	Kansas City Minority Supplier Council
Missouri	State of Missouri
Missouri	Missouri DOT
Missouri	City of St. Louis
Missouri	City of Kansas City
Missouri	Missouri UCP (MRCC)
Missouri	Missouri Office of Administration, Office of Supplier and Worker Diversity (OSWD)
Missouri	St. Louis Minority Business Council
Missouri	Metro
Montana	Montana DOT
Nebraska	State of Nebraska
Nebraska	City of Omaha
Nebraska	Nebraska Department of Economic Development
Nebraska	Nebraska Department of Roads
Nebraska	Great Plains Minority Supplier Development Council
Nevada	Nevada DOT
Nevada	Airport Authority of Washoe County

## Section 2

Nevada	Nevada Minority Purchasing Council
New Hampshire	New Hampshire DOT
New Jersey	New Jersey DOT
New Jersey	Port Authority of New York and New Jersey
New Jersey	New Jersey UCP (NJ UCP)
New Mexico	New Mexico State Highway and Transportation Department
New York	Port Authority of New York and New Jersey
New York	Suffolk County Women's Business Coalition
New York	State of New York
New York	Erie County/City of Buffalo Joint Certification
New York	Westchester County
New York	Niagara Frontier Transportation Authority
New York	City of New York
New York	City of Albany
New York	Dormitory Authority of the State of New York
New York	City of Buffalo-Office of Urban Initiatives
New York	Metropolitan Transportation Authority
New York	New York DOT
New York	Minority Supplier Development Council of New York and New Jersey
New York	Upstate New York Regional Minority Purchasing Council
North Carolina	City of Durham
North Carolina	City of Raleigh
North Carolina	City of Charlotte
North Carolina	City of Greensboro
North Carolina	City of Winston-Salem
North Carolina	Cumberland County
North Carolina	North Carolina DOT
North Carolina	State of North Carolina
North Carolina	Raleigh-Durham Airport Authority
North Carolina	City of Asheville
North Carolina	Ashville-Buncombe Office of Minority Affairs
North Carolina	Carolinas Minority Supplier Development Councils
North Dakota	North Dakota DOT
Ohio	State of Ohio
Ohio	City of Cleveland
Ohio	Ohio DAS Equal Opportunity (OH DAS)
Ohio	Ohio UCP
Ohio	Ohio DOT
Ohio	Cuyahoga County
Ohio	City of Columbus
Ohio	City of Cincinnati

## Section 2

Ohio	Greater Cleveland Regional Transit Authority
Ohio	South Central Ohio Minority Business Council
Ohio	Northern Ohio Minority Business Council
Oklahoma	Oklahoma DOT
Oklahoma	Oklahoma Minority Supplier Development Council
Oklahoma	City of Tulsa
Oregon	State of Oregon
Oregon	Oregon Office of Minority, Women, and Emerging Small Business (OMWESB)
Pennsylvania	Minority Supplier Development Council of PA-NJ-DE
Pennsylvania	Pittsburgh Regional Minority Purchasing Council
Pennsylvania	PA Unified Certification (PA UCP)
Pennsylvania	Southeastern Pennsylvania Transportation Authority (SEPTA)
Pennsylvania	Pennsylvania Department of General Service (PADGS)
Pennsylvania	Delaware River Port Authority (DRPA)
Pennsylvania	State of Pennsylvania
Pennsylvania	City of Philadelphia
Pennsylvania	Allegheny County
Pennsylvania	Port of Allegheny County
Pennsylvania	Pennsylvania DOT
Puerto Rico	Puerto Rico Supplier Development Council
Puerto Rico	Puerto Rico Highway and Transportation Authority
Rhode Island	State of Rhode Island
Rhode Island	RI.gov
Rhode Island	Rhode Island Department of Transportation (RIDOT)
South Carolina	State of South Carolina
South Carolina	City of Charleston
South Carolina	Greenville County Schools Building Program
South Carolina	South Carolina DOT
South Carolina	scminoritybusiness.net
South Dakota	South Dakota Department of Transportation
Tennessee	Tennessee Minority Supplier Development Council
Tennessee	Tennessee DOT
Tennessee	Tennessee.gov
Tennessee	Knox County
Texas	State of Texas HUB program
Texas	North Central Texas Regional Certification Agency (NCTRCA)
Texas	City of Houston
Texas	City of Austin
Texas	City of Corpus Christi
Texas	City of Fort Worth
Texas	Texas DOT

## Section 2

Texas	South Central Texas Regional Certification Agency (SCTRCA)
Texas	Dallas/Ft. Worth Minority Business Development Council
Texas	Houston Minority Business Council
Texas	Central & South Texas Minority Business Council
Utah	Utah DOT
Utah	Utah Supplier Development Council (USDC)
Vermont	Vermont DOT
Vermont	Vermont Facilities Engineering Decision (VT DEC)
Virginia	Commonwealth of Virginia
Virginia	Virginia Unified Certification Program (VA UCP)
Virginia	Virginia DOT
Virginia	City of Newport News
Virginia	City of Richmond
Virginia	City of Hampton
Virginia	Virginia Minority Supplier Development Council
Washington	Washington State Office of Minority & Women's Business Enterprises (OMWBE)
Washington	Northwest Minority Business Council
West Virginia	State of West Virginia
West Virginia	West Virginia Small Business Development Center (WVSBDC)
Wisconsin	Milwaukee County
Wisconsin	Dept. of Administration/Dept of Commerce
Wisconsin	City of Milwaukee
Wisconsin	Wisconsin DOT
Wisconsin	City of Madison
Wisconsin	Dane County
Wisconsin	Wisconsin Supplier Development Council
Wyoming	Wyoming Department of Transportation (WYDOT)
ASDV	Association for Service Disabled Veterans
HBCU	Historically Black Colleges and Universities
NGLCC	National Gay Lesbian Chamber of Commerce
NMSDC	National Minority Supplier Development Council and Affiliate Network
NNABD	National Native American Business Directory
OSDBU	Office of Small and Disadvantaged Business Utilization SDB, 8A, HUB Zone, SDVet, Veteran (Pro-Net) (System for Awards Management of SAM.gov)
SBA	
VA	United States Department of Veteran's Affairs, Center for Veterans Enterprise
WBENC	Women's Business Enterprise National Council and Regional Partners