



**City of Kansas City  
Human Relations Department**

**EXHIBIT 9B  
LCRA 2/27/19**

Date: February 2, 2019  
 To: LCRA Board Chair  
 From: Phillip Yelder, Director  
 Subject: Land Clearance for Redevelopment Authority (LCRA) Affirmative Action Report  
 (November 1<sup>st</sup>, 2018 - December 31<sup>st</sup>, 2018)

**LCRA M/WBE Status Report:**

The LCRA Affirmative Action Program includes the Minority & Women Owned Business Enterprise Program (M/WBE). The Affirmative Action Program is also codified at City Code 130041 (§3-401 et seq.) and applies to all Statutory Agency contracts entered into after September 1, 2007 that exceed \$117,000 for Professional Services and that exceed \$300,000 for Construction Services.

Projects monitored by the Human Relations Department are projects that have an approved Contractor Utilization Plan (CUP) with applicable Letters of Intent (LOIs) awarded to certified subcontractors. There are a total of **28 LCRA Construction Projects** currently monitored for compliance by the Human Relations Department. For reporting purposes, the projects are delineated between Active and Inactive Projects. Active Projects include projects that are either in the bidding and/or construction phase. Inactive Projects are projects that have entered the close-out process (which includes the punch list phase) and/or has been placed on hold by the Redeveloper. Inactive Projects are monitored until the Developer submits the following documentation: (1) Developer Affidavit of Compliance and (2) all executed Subcontractor Lien Waivers and/or Subcontractor Final Payment Affidavits.

Per City Code, the LCRA is required to make good faith efforts towards achieving M/WBE participation on contracts it directly solicits, or through redevelopment projects receiving tax incentives. The goals for the LCRA are set by City Code 130041, § 3-427. As of **December 31, 2018**, LCRA, through its Redevelopment Agreements, has achieved the participation levels depicted in Table 1 and Table 2 (below).

M/WBE Performance Summary of Active LCRA Projects

	Total Value of Active Projects	MBE Contracts Awarded	MBE Target Goal %	MBE % Awarded	WBE Contracts Awarded	WBE Target Goal %	WBE % Awarded
Professional Services (PS)	\$13,852,986	\$1,202,487	13%	9%	\$718,192	8%	5%
Construction Services (CS)	\$221,771,315	\$23,896,863	15%	11%	\$16,121,749	7%	7%

TABLE 1.

## M/WBE Performance Summary of Inactive LCRA Projects

	Total Value of All Inactive Projects	MBE Contracts Awarded	MBE Target Goal %	MBE % Awarded	WBE Contracts Awarded	WBE Target Goal %	WBE % Awarded
Professional Services (PS)	\$1,675,711	\$248,146	13%	15%	\$133,664	8%	8%
Construction Services (CS)	\$20,407,571	\$3,155,485	15%	15%	\$1,713,538	7%	8%

TABLE 2.

**M/WBE Enforcement Action Update:**

As of December 2015, all Redevelopers subject to the Affirmative Action Program are required to report contract payments through the City of Kansas City's electronic B2Gnow system. All reports are due by the 15<sup>th</sup> of the following month. Subcontractors must confirm receipt of the payments or initiate a discrepancy of the contract amount through this electronic system. If such a discrepancy is initiated, the Compliance Officer investigates the discrepancy to resolution. Once the discrepancy is resolved, the Compliance Officer approves the audit and that amount is reported in the attached detailed report. The M/WBE detailed report ("LCRA M/WBE Expenditure & Progress Report") is included as Exhibit A.

In the month of **December 2018**, there were **3 out of 24** of the **Active Projects** that had expended at least 30% of its estimated budget and are currently not meeting M/WBE goals or has not submitted a required Affirmative Action report(s). Letters have been sent to the Developer allowing fourteen (14) days to provide documentation on how they intend to comply with the M/WBE requirements. The following is a list of projects and the corresponding action taken by the Human Relations Department Contract Compliance Officer(s):

## LCRA Projects Not Meeting M/WBE Utilization Goals w/ Corresponding Action

Project Name	Developer	Type	MWBE Goal		Total MWBE Percentage Shortage	Action Taken
			MBE %	WBE%		
600 Central (OGGI Lofts)	600 Central Apts, LLC	Professional Services	24%	8%	32%	Letter Sent; Noncompliance with reporting requirements
600 Central (OGGI Lofts)	Homoly Construction	Construction Services	15%	13%	5%	Letter Sent; Non-reporting
626 E 63rd Street (aka 660 E 63rd St)	Bridger Properties LLC	Construction Services	17%	9%	7%	Letter Sent; Requested C/O documents

TABLE 3.

### **Good Faith Efforts Review:**

- None

### **Close-Outs Pending and Payment Discrepancies:**

As of **December 31, 2018**, there are **twelve (12)** projects that did not complete reporting for close-out in order for HRD to determine whether the project complied with the good faith efforts in achieving M/WBE utilization (see Exhibit A).

There were **10 payment discrepancies** reported by subcontractors. Those discrepancies are currently being resolved between the parties. No further action is needed at this time.

### **The following project(s) were closed during the reporting period:**

- None

### **Construction Workforce Action Update:**

The Construction Employment Program (commonly referred to as Construction Workforce) requires more than 800 construction labor hours and exceeds a total estimated cost of \$300,000. On December 15, 2009 the Statutory Agencies, including the TIF, adopted the City's Construction Employment Program as embodied in Ordinance No. 070504. The Workforce Ordinance under Chapter 38 was repealed in its entirety June 1, 2013 and replaced with Ordinance 130275, Sections 3-501 thru 3-527. All projects (including public projects, private projects with City funding, and Statutory Agency projects) that started after June 1, 2013 are subject to the monitoring and liquidated damages set forth therein. All TIF projects (including Active and Inactive Projects) that meet these thresholds are required to report construction workforce hours until the Redeveloper has submitted a final audit for workforce.

All workforce reports are due by the 15<sup>th</sup> of the following month. The report included is the month that the Construction Workforce Board has most recently accepted. The hours for the **month of December 2018** are depicted in Table 4 (below). This report consists of LCRA projects that have a CUP on file. **NOTE: The Construction Workforce Board is scheduled to meet in the month of March 2019 to approve the December 2018, January, February 2019 reports; therefore no updates are reported here.**

Under the Ordinance and LCRA Policy, the Prime contractors are to self-report worker hours for their Company-wide construction workforce in the Kansas City Metropolitan Statistical Area (KCMSA). Primes are also required to self-report worker hours on specific projects funded by the City or that are tax incentivized. Subcontractors are only required to report their Project-specific worker hours. Redevelopers are Prime Contractors for purposes of the Redevelopment agreement. However, because Redevelopers do not have a per se "construction workforce" to report, only subcontractors' hours are reported for purposes of compliance. Accordingly, the information for Company-wide and Project-specific for the Prime (or Redeveloper) is not applicable. **NOTE: The General Contractor is considered a subcontractor for purposes of the Redevelopment Agreement and therefore the General Contractor hours are counted in the subcontractors' Project-specific hour totals unless otherwise noted.**

The City's Construction Workforce Report, which includes all City and Statutory Agency projects, details hours worked by each contractor and subcontractor and is delineated by ethnicity, sex, and KCMO Resident status. An archive of the Construction Workforce Reports is available at [www.kcmo.org/humanrelations](http://www.kcmo.org/humanrelations).

The established workforce participation hours goals for **minority and female workers are 10 percent (10%) and 2 percent (2%) respectively**. The incentive goals for minority and female workforce participation hours are 20 percent (20%) and four percent (4%) respectively.

Below is a synopsis of the workforce hour totals for the **month of July 2018** for LCRA projects:

LCRA Construction Projects Workforce Hours

	Total Hours Worked	Minority Hours Worked	Actual %*	Female Hours Worked	Actual %	KCMO Hours Worked	Actual*%
<b>Project Specific Hours Worked</b>	<b>33,161</b>	<b>5,752</b>	<b>17%</b>	<b>1,250</b>	<b>4%</b>	<b>5,306</b>	<b>16%</b>

TABLE 4.

**Site Visit Report:**

As part of the monthly audits, site visits are randomly conducted by Staff to ensure compliance reporting matches onsite work. The following projects were visited during the **month of December 2018**:

- **600 Central (OGGI Lofts)**

Any questions regarding this report may be directed to your Compliance Liaison, Dion Lewis, at [dion.lewis@kcmo.org](mailto:dion.lewis@kcmo.org) or 816-513-1836.

**(end report)**

**LCRA Expenditure Progress Report:  
November - December 2018**

Status Code Legend: Meeting Goals

Risk of Not Meeting Goals

Not Meeting Goals

Project Name	Developer	Original Estimated Budget	MBE CUP Goal	MBE % Met To Date	MBE Paid To Date	WBE CUP Goal	WBE % Met To Date	WBE Paid To Date	Total YTD Budget Spent	Remaining % of Budget	System Proj #	Comments
<b>Active Projects</b>	<b>ACTIVE PROJECTS</b>											
<b>600 Central (OGGI Lofts)</b>	<b>600 Central Apts LLC</b>											
Homoly Construction - GC	Construction Services	\$ 2,495,478.00	15.00%	14.82%	\$ 369,734.87	13.00%	0.00%	\$ 114,286.65	\$ 2,073,861.00	16.90%	LCRA-CS2016-600CA	NMG letter sent; Requested CUP; Mediation Settlement Agreement resolved to the satisfaction of all parties
600 Central Apts LLC	Professional Services	\$ 293,750.00	24.00%	0.00%	\$ -	8.00%	0.00%	\$ -	\$ -	100.00%	LCRA-PS2016-600CA	NMG letter sent; Requested CUP; Non-reporting
<b>905 Broadway</b>	<b>905 Broadway LLC</b>											
Centric Projects - GC	Construction Services	\$ 3,501,792.00	15.00%	16.18%	\$ 566,494.18	15.00%	15.69%	\$ 549,514.80	\$ 4,666,570.99	-33.26%	LCRA-CS2016-905B	Compliant; Requested close-out documents
905 Broadway, LLC	Professional Services	\$ 516,078.00	18.00%	15.30%	\$ 78,940.39	8.00%	7.73%	\$ 39,886.75	\$ 217,596.14	57.84%	LCRA-PS2017-905B	Compliant; Requested close-out documents
<b>911 Main/Commerce Tower</b>	<b>Commerce Tower Group</b>											
Ryan Construction - GC	Construction Services	\$ 65,488,452.00	14.00%	26.19%	\$ 14,303,174.31	8.00%	12.79%	\$ 6,985,239.17	\$ 54,611,955.34	16.61%	LCRA-CS2017-CT911	Compliant; Requested close-out documents; NOTE: Davis-Bacon issues with HUD; HRD notified incentive agencies (TIF and LCRA) of Davis-Bacon issues
Commerce Tower Group	Professional Services	\$ 2,786,442.00	15.00%	36.64%	\$ 403,864.22	10.00%	24.51%	\$ 270,139.74	\$ 1,102,195.24	60.444%	LCRA-PS2017-CT	Compliant; Requested close-out documents
<b>915 Broadway</b>	<b>The Yarco Companies</b>											
Rau Construction - GC	Construction Services	\$ 5,765,891.00	15.00%	30.02%	\$ 941,649.75	8.00%	18.96%	\$ 594,793.00	\$ 3,136,442.75	45.60%	LCRA-CS2016-915-BDY	Compliant; Requested Close-out Documents
Yarco Development	Professional Services	\$ 944,869.00	14.00%	0.00%	\$ -	8.00%	0.00%	\$ -	\$ -	100.00%	LCRA-PS2016-915BDY	Requested Close-out Documents; Reporting will be reconciled at close-out
<b>1600 Cherry</b>	<b>Abbott Properties</b>											
TBD	Construction Services	\$ 256,206.00	14.00%	0.00%	\$ -	5.00%	0.00%	\$ -	\$ -	100.00%	No reporting required at this time	Goal is set as advice only; Budget is below threshold for goal setting
Abbott Properties	Professional Services	\$ 25,000.00	0.00%	0.00%	\$ -	8.00%	0.00%	\$ -	\$ -	100.00%	No reporting required at this time	No numerical goal
<b>1608 Locust</b>	<b>Abbott Properties</b>											
Carter Property Group, LLC	Construction Services	\$ 503,983.00	22.00%	0.00%	\$ -	11.00%	0.00%	\$ -	\$ -	100.00%	LCRA-CS2018-1608	CUP Completed, No reporting done on this project
Abbott Properties	Professional Services	\$ 24,200.00	0.00%	0.00%	\$ -	0.00%	0.00%	\$ -	\$ -	100.00%	No reporting required at this time	No numerical goal
<b>Hotel Indigo @ 2020 Grand</b>	<b>Crossroads Hotel Group</b>											
Abbott Properties	Construction Services	\$ 5,161,850.00	16.00%	19.24%	\$ 713,035.83	7.00%	5.37%	\$ 198,944.80	\$ 3,706,607.13	28.19%	LCRA-CS2016-2020	Requested close-out documents
Abbott Properties	Professional Services	\$ 320,800.00	17.00%	49.51%	\$ 47,402.25	20.00%	55.18%	\$ 52,829.68	\$ 95,736.00	70.16%	LCRA-PS2016-2020	Requested close-out documents
<b>Interstate Building /13th Locust</b>	<b>Lotus Hospitality</b>											
HCM-KC - GC	Construction Services	\$ 6,213,647.00	15.00%	0.00%	\$ -	8.00%	0.00%	\$ -	\$ -	100.00%	1A	GFE completed; Assessed LDs by LCRA for Construction Services
Lotus Hospitality	Professional Services	\$ 237,000.00	15.00%	0.00%	\$ -	9.00%	0.00%	\$ -	\$ -	100.00%	1A	Requested PS CUP; No Response to PS CUP
<b>Morningstar Senior Apartments</b>	<b>Morningstar Senior LP</b>											
Morningstar Senior LP	Professional Services	\$ 1,567,860.00	15.00%	#DIV/0!	\$ -	10.00%	#DIV/0!	\$ -	\$ -	100.00%	LCRA-PS2016-MSA	Close out documents in review

**LCRA Expenditure Progress Report:  
November - December 2018**

Status Code Legend: Meeting Goals  
Risk of Not Meeting Goals  
Not Meeting Goals

Project Name	Developer	Original Estimated Budget	MBE CUP Goal	MBE % Met To Date	MBE Paid To Date	WBE CUP Goal	WBE % Met To Date	WBE Paid To Date	Total YTD Budget Spent	Remaining % of Budget	System Proj #	Comments
<b>Norman School Lofts</b>	<b>Norman School ApartmentsLL</b>											
Haren Laughlin	Construction Services	\$ 8,698,524.00	15%	39.12%	\$ 1,450,400.00	9%	28%	\$ 1,055,109.54	\$ 3,707,094.00	87.38%	LCRA-CS2016-NSA	Compliant
<b>New England Lofts</b>	<b>New England Lofts, LLC</b>											
Rau Construction - GC	Construction Services	\$ 4,232,400.00	16.50%	25.78%	\$ 644,600.25	9.50%	20.26%	\$ 506,590.77	\$ 2,500,000.00	40.93%	LCRA-CS2016-NEL	Requested Close-out documents
New England Lofts LLC	Professional Services	\$ 327,400.00	13.00%	33.51%	\$ 30,093.56	8.00%	29.68%	\$ 26,660.00	\$ 89,817.56	72.57%	LCRA-PS2016-NEL	Requested Close-out documents
<b>626 E 63rd Street (aka 660 E 63rd St)</b>	<b>Bridger Properties LLC</b>											
Bear Claw Construction Management, LLC	Construction Services	\$ 2,471,000.00	17.00%	12.56%	\$ 310,341.00	9.00%	7.27%	\$ 179,660.00	\$ 2,471,000.00	0.00%	LCRA-CS2016-626	NMG letter sent; Requested Close-out documents
UC-B Brookside, LLC	Professional Services	\$ 204,950.00	23.00%	#DIV/0!	\$ 4,671.98	7.00%	#DIV/0!	\$ 1,051.32	\$ -	100.00%	LCRA-PS2015-626	No reporting since Oct 2016, Called Prime and left message for upadted status
<b>TMC Ambulatory Care</b>	<b>Landmark Healthcare Facilities</b>											
F.A. Wilhelm	Construction Services	\$ 27,534,858.00	9.00%	208.38%	\$ 4,345,210.26	11.00%	296.71%	\$ 6,187,058.48	\$ 2,085,199.86	92.43%	LCRA-CS2015-TMCAC	Compliant, Requested Close-out documents
Landmark Healthcare Facilities	Professional Services	\$ 1,757,528.00	13.00%	19.20%	\$ 337,479.17	8.00%	12.38%	\$ 217,593.81	\$ 1,757,886.79	-0.02%	PSLCRA-TMC Ambulatory	Compliant, Requested Close-out documents
<b>St Michael's Veterans Center Ph. 2</b>	<b>The Yarco Companies</b>											
4Sight Group, LLC	Construction Services	\$ 6,202,085.00	16.00%	#DIV/0!	\$ 547,846.67	9.00%	#DIV/0!	\$ 656,073.50	\$ -	100.00%	LCRA-CS2015-SMVC2	No reporting since May 2017, Called Prime and left message for upadted status
The Yarco Companies	Professional Services	\$ 726,000.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-PS2015-SMVC2	1-A Goal and CUP Prime; Requested CUP
<b>921G Main/ Commerce Tower Garage</b>	<b>Paric Corp</b>											
Paric Corp	Construction Services	\$ 6,070,463.00	13.00%	33.94%	\$ 1,300,933.77	6.00%	17.47%	\$ 669,621.15	\$ 3,833,529.00	36.85%	LCRA-CS2017-CTG	Compliant
<b>1010 Prospect</b>												
	Construction Services	\$ 583,900.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2017-1010P	1-A Goal and CUP Prime
<b>Mersington YMCA Parking Lot</b>												
	Construction Services	\$ 228,114.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2017-3800	1-A Goal and CUP Prime
<b>Arterra 21/2100 Wyandotte</b>	<b>ARTerra LLC</b>											
JE Dunn Construction	Construction Services	\$ 23,457,004.00	16.60%	22.56%	\$ 2,556,886.24	12.70%	24.80%	\$ 2,811,888.87	\$ 11,336,018.00	51.67%	LCRA-CS2017-ART	Compliant
ARTerra LLC	Professional Services	\$ 1,312,007.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-PS2017-ART	1-A Goal and CUP Prime
<b>Blenheim School Apartments</b>	<b>Blenheim School Apartments, LP</b>											
Rau Construction Company	Construction Services	\$ 6,680,453.00	10.00%	12.45%	\$ 885,552.33	6.00%	4.79%	\$ 340,524.79	\$ 7,113,129.00	-6.48%	LCRA-CS2017-17091HT	Requested Close-out documents
Blenheim School Apartments, LP	Professional Services	\$ 539,522.00	9.00%	10.96%	\$ 52,008.54	6.00%	4.53%	\$ 21,500.00	\$ 474,563.70	12.04%	LCRA-PS2017-17091HT	Requested Close-out documents
<b>3260 Main Mixed Use Development</b>												
	Construction Services	\$ 563,500.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCA-CS2018-3260	1-A Goal and CUP Prime
	Professional Services	\$ 563,500.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCA-PS2018-3260	1-A Goal and CUP Prime
<b>ACME- 3200 Gillham</b>	<b>Exact ACME LLC</b>											
Exact ACME LLC	Construction Services	\$ 2,989,250.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2018-3200	1-A Goal and CUP Prime
Exact ACME LLC	Professional Services	\$ 96,500.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-PS2018-3200	1-A Goal and CUP Prime

**LCRA Expenditure Progress Report:  
November - December 2018**

Status Code Legend:	Meeting Goals
	Risk of Not Meeting Goals
	Not Meeting Goals

Project Name	Developer	Original Estimated Budget	MBE CUP Goal	MBE % Met To Date	MBE Paid To Date	WBE CUP Goal	WBE % Met To Date	WBE Paid To Date	Total YTD Budget Spent	Remaining % of Budget	System Proj #	Comments
<b>25th &amp; Troost Beacon Hill Apartments</b>												
	Construction Services	\$ 5,105,336.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2018-2500	1-A Goal and CUP Prime
<b>25th and Troost Beacon Hill Multifamily Development</b>												
	Construction Services	\$ 33,998,329.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2018-2500T	1-A Goal and CUP Prime
	Professional Services	\$ 1,369,790.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-PS2018-2500T	1-A Goal and CUP Prime
<b>Troost 53rd - 63rd URA/5522 Troost Avenue</b>												
	Construction Services	\$ 3,568,800.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-CS2017-5520	1-A Goal and CUP Prime
	Professional Services	\$ 239,790.00	0.00%		\$ -	0.00%		\$ -	\$ -		LCRA-PS2017-5520	1-A Goal and CUP Prime

**LCRA Expenditure Progress Report:  
November - December 2018**

Status Code Legend: Meeting Goals

Risk of Not Meeting Goals

Not Meeting Goals

Project Name	Developer	Original Estimated Budget	MBE CUP Goal	MBE % Met To Date	MBE Paid To Date	WBE CUP Goal	WBE % Met To Date	WBE Paid To Date	Total YTD Budget Spent	Remaining % of Budget	System Proj #	Comments
<b>Inactive Projects</b>	<b>INACTIVE PROJECTS</b>											
<b>1914 Main</b>	<b>Lindenstreet Partners, LLC</b>											
Centric Projects - GC	Construction Services	\$ 5,115,751.00	16.00%	27.34%	\$ 1,049,146.53	9.00%	9.87%	\$ 378,819.78	\$ 3,837,640.43	24.98%	LCRA-CS2015-1914	Compliant; Waiting for close out docs
Lindenstreet Partners, LLC	Professional Services	\$ 376,820.00	14.00%	16.41%	\$ 62,061.45	8.00%	7.66%	\$ 28,980.46	\$ 378,145.46	0%	LCRA-PS-1914 Main	NMG Letter Sent; Waiting for close out docs
<b>Morningstar Youth Family Life Center</b>	<b>Morningstar LLC-Diggs Construction</b>											
Meritt Construction - GC	Construction Services	\$ 2,439,470.00	16.00%	15.55%	\$ 367,598.25	8.45%	6.65%	\$ 157,196.14	\$ 2,364,695.51	3.07%	LCRA-CS2015-MYFLC	Close-out documents requested; Payment issue with MBE sub resolved to satisfaction of all parties
Morningstar LLC	Professional Services	\$ 439,500.00	21.00%	71.06%	\$ 312,625.00	4.00%	0.00%	\$ -	\$ 439,965.00	-0.11%	LCRAPSMYFLC	Close-out documents requested
<b>Inactive Projects</b>	<b>INACTIVE PROJECTS</b>											
<b>Columbus Park Lofts Ph 1</b>	<b>CP Lofts LP</b>											
Prairie Fire Construction - GC	Construction Services	\$ 10,972,570.00	15.00%	14.61%	\$ 1,769,730.67	8.00%	8.32%	\$ 1,007,330.10	\$ 12,113,699.33	-10.40%	LCRA-CS400-CPL	NMG Letter Sent, Requested Close-out documents via phone call (left message), email in B2G is incorrect
Columbus Park Developers, LC	Professional Services	\$ 859,391.00	12.00%	15.55%	\$ 141,408.60	10.00%	10.14%	\$ 92,240.00	\$ 909,648.99	-5.85%	LCRA-PS400-CPL	Requested Close-out documents via phone call (left message), email in B2G is incorrect
<b>Columbus Park Infrastructure Ph1</b>	<b>Columbus Park Developers, LC</b>											
Prairie Fire Construction - GC	Construction Services	\$ 1,879,780.00	16.00%	52.34%	\$ 1,203,548.69	9.00%	10.41%	\$ 239,471.00	\$ 2,299,404.21	-22.32%	LCRA-CS2013-CPI	Requested Close-out documents via phone call (left message), email in B2G is incorrect
Columbus Park Developers, LC	Professional Services										LCRA-PS400-CPL	See Professional Services for Columbus Park Lofts Ph. 1 (above)