

AGENDA



Thursday, December 11, 2008

Small & Minority Business Resources
RECOMMENDATION FOR COUNCIL ACTION

Item No. 60

Subject: Approve an ordinance amending Chapter 2-9A of the City Code, the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program for Construction.

Fiscal Note: There is no anticipated fiscal impact. A fiscal note is not required.

For More Information: Stephen Elkins, 974-1656; Sabine Romero, 974-2518

Boards and Commission Action: Approved by the MBE/WBE, Small Business Advisory Committee and Small Business Council Subcommittee.

Prior Council Action: June 8, 2006-Council approved the establishment of a procurement program for construction services and extension of the ordinance sunset deadline to December 31, 2010; October 8, 2006-Council approved the professional service agreement with National Economic Research Associates, Inc. (NERA), Colette Holt & Associates, and Andrews & Kurth, LLP to conduct and implement an updated availability and disparity study of the minority-owned and women-owned businesses; January 31, 2008-Council approved amendment for contract increase to the professional services agreement with NERA.

In 2006, the City Council authorized an agreement to further ensure continuing compliance with constitutional mandates and Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) best practices by updating the availability and disparity study of minority-owned and women-owned businesses. The results of the study provide the evidentiary record necessary to implement renewed MBE/WBE policies that comply with the requirements of the courts and to assess the extent to which previous policies have assisted MBE/WBEs to participate on a fair basis in the City's contracting and procurement activity.

The City's Minority-Owned and Women-Owned Business Enterprise Procurement Program is scheduled to sunset on December 31, 2010; however, based on the results of the study's statistical and anecdotal evidence, City Staff collaborated with the MBE/WBE and Small Business Advisory Committee and Council Subcommittee on proposed amendments to the ordinance and the program.

The proposed ordinance consists of minor City Code revisions, definition expansions, and program adjustments. Highlights of major changes to the ordinance are as follows:

- Section 2-9A-1 is revised to update the history of the ordinance's legal justification by adding that the City repealed Chapter 2-9 of the City Code and replaced it with four distinct chapters addressing separate aspects of the program (Chapter 2-9A-Construction; Chapter 2-9B-Professional Services; Chapter 2-9C-Non-Professional Services; and Chapter 2-9D-Commodities) and summarizing results of the 2008 availability analysis and disparity study.

- Section 2-9A-3 amends the participation goals for construction services based on the results from the 2008 study.

- Section 2-9A-4 amends the definition of Economic Disadvantage to reflect the net worth ceiling increase from \$900,000 to \$1,300,000.

- Section 2-9A-4 amends the MBE/WBE definitions to reference the US Small Business Administration's (SBA) size standards via three year average gross receipts or number of employees.

- Section 2-9A-26 establishes a new sunset date for the ordinance of December 31, 2013.

The MBE/WBE and Small Business Advisory Committee conducted several meetings to allow for public input on the proposed changes to the ordinance. The proposed ordinance amendments have been approved by the MBE/WBE and Small Business Advisory Committee and Council Subcommittee.