

ORDINANCE NO.

AN ORDINANCE AMENDING PARTS 5, 6, AND 7, AND ADDING A NEW PART 8 TO ORDINANCE NO. 20070621-152 RELATING TO VENDOR RECORDKEEPING REQUIREMENTS AND EXCEPTIONS TO THE WORKPLACE CONDITIONS CODE; AND RENUMBERING PARTS 8 THROUGH 10 ACCORDINGLY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsection (C) (*Discrimination*) of Part 5 (*Prohibition of Sweatshop Conditions*) to Ordinance No. 20070621-152 is amended to read:

(C) Discrimination. A vendor shall not engage in discriminatory employment practices, as defined in Chapter 5-4 of the Code [~~Title 5 of the City Code~~], which prohibits discrimination on the basis of [gender], race, creed, color, religion, national origin, sexual orientation, gender identity, [age], disability, sex, or age.[sexual orientation, nationality, political opinion, or social or ethnic origin] A vendor shall not engage in any unlawful employment practices as defined in Chapter 5-3 of the Code. [~~in hiring, salary, benefits, advancement, disciplinary action, termination, or retirement.~~] A vendor shall not require a pre-employment pregnancy test[s] as a condition of employment and shall not [~~nor~~] demand pregnancy tests of employees. Women workers shall receive equal treatment and remuneration, including pay, benefits, and the opportunity to fill a position that is open to a male worker.

PART 2. Part 6 (*Vendor Recordkeeping Requirements*) to Ordinance No. 20070621-152 is amended to amend Subsections (B) and (C) to read as follows and the remaining subsections are relettered accordingly:

(B) For every bid or contract for production of goods or provision of services covered by this policy, each bidder or contractor shall submit to the City the following:

(1) an affidavit setting forth [~~the following information:~~](a) the country of production and names, physical addresses and phone numbers of each facility involved in the production of goods or provision of services covered by this policy, which shall be updated to show any changes in subcontractors or facilities during the term of the contract;

1 ~~[(b) An initial copy of each facility's standard payroll records, including the~~
2 ~~minimum base hourly wage of non-supervisory production employees,~~
3 ~~percent of wage level paid as health benefit, other benefits, regular~~
4 ~~deductions from paychecks, normal working hours per day and week, actual~~
5 ~~working hours per day and week, and overtime policy, if any.]~~

6 ~~[(2) An agreement in which the vendor commits to the following:~~

7 ~~(a) That the vendor and each proposed supplier or subcontractor will adhere~~
8 ~~to the Workplace Conditions Code as defined in Part 5;~~

9 ~~(b) That a copy of this code has been furnished to each of the vendor's~~
10 ~~suppliers or subcontractors; and~~

11 ~~(c) That the vendor has required each supplier to post a copy of this code,~~
12 ~~including a procedure for filing complaints, in a location that is visible,~~
13 ~~obvious, and accessible in the workplace and translated into the each~~
14 ~~worker's first language.]~~

15 ~~(2)[(3)] A description of any claims or legal actions related to discrimination or~~
16 ~~worker wages, hours, or working conditions filed against the vendor in any~~
17 ~~local, state, or federal administrative agency or court in the preceding five~~
18 ~~years; and[-]~~

19 ~~(3)[(4)] Any other information deemed necessary by the City for the~~
20 ~~administration and enforcement of this policy.~~

21 (C) Each City contract shall include an agreement in which the vendor commits to
22 the following:

23 (1) That the vendor and each proposed supplier will adhere to the Workplace
24 Conditions Code as defined in Part 5;

25 (2) That a copy of this code has been furnished to each of the vendor's
26 suppliers or subcontractors;

27 (3) That the vendor has required each supplier to post a copy of this code,
28 including a procedure for filing complaints, in a location that is visible,
29 obvious, and accessible in the workplace and translated into [the] each
30 worker's first language; and

31 (4) That the vendor will make available, upon the City's request, a copy of
32 each facility's standard payroll records, including the minimum base
33 hourly wage of non-supervisory production employees, percent of wage
34 level paid as health benefit, other benefits, regular deductions from

1 paychecks, normal working hours per day and week, actual working
2 hours per day and week, and overtime policy, if any.

3 (D)~~(C)~~ Each vendor shall retain the documents described in Subsection (B) and
4 (C) for a period of three years after the date that the City contract is
5 terminated.

6 **PART 3.** Part 7 (*Compliance; Verification*) to Ordinance No. 20070621-152 is amended
7 to amend Subsection (B) to read as follows:
8

9 (B) The City may enter into an agreement with an an ~~nonprofit~~ independent
10 agency to assist in monitoring vendor compliance with this code. Under such an
11 agreement, the independent monitor would receive complaints and provide
12 monitoring, inspection, investigation, and remediation services at facilities
13 producing goods or providing services to the City. The City's annual expenditure
14 to monitor compliance with this code shall be in an amount not to exceed one
15 percent of the City's annual apparel purchases. Refusal of a vendor to permit
16 independent monitoring shall result in disqualification for bidding. An
17 independent monitor must meet the following minimum requirements:
18

- 19 (1) It may have no relationship with any vendor subject to monitoring
20 beyond the monitoring relationship.
- 21 (2) It must have knowledge of local non-governmental organizations and
22 human rights groups to assist the City with worker interviews.
- 23 (3) It must have knowledge of local business and financial auditing practices,
24 health and safety standards, international labor conventions, and local
25 laws and regulations.
- 26 (4) It must be able to conduct unannounced visits to a production facility and
27 create a streamlined process for interviewing workers at the production
28 facility without a supervisor present.
- 29 (5) It must be able to conduct off-site worker interviews.
- 30 (6) It must recognize a worker's right to decline to be interviewed without
31 threat of a negative consequence.
- 32 (7) It must have knowledge of local language, vernacular, and cultural
33 relevant to conducting thorough worker interviews in their local
34 language.
35

36 **PART 4.** Ordinance No. 20070621-152 is amended to add new Part 8 to read as follows
37 and the remaining parts are renumbered accordingly:
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39 **PART 8.** Exceptions.

40 This ordinance does not apply to the following contracts:
41

- 1
2 (A) A contract that involves the expenditure of grant funds received by the City
3 and the application of this code would violate or be inconsistent with (1) the
4 terms or conditions of the applicable grant, subvention, or agreement; or (2)
5 the instructions of an authorized representative of any agency providing the
6 grant, subvention, or agreement.
7
8 (B) A contract in which the acquisition of goods is only incidental to the other
9 purchases under the contract. The acquisition of goods shall be incidental if the
10 amount paid by the City for the goods is 10 percent or less than the total
11 amount of the contract.
12
13 (C) A contract in which the department requesting the contract has certified in
14 writing to the Purchasing Officer prior to the contract award that pursuant to
15 Texas Local Government Code Section 252.022, (1) the procurement is
16 necessary to preserve or protect the public health or safety of the City's
17 residents; or (2) the procurement is made because of a public calamity that
18 requires immediate expenditure of money to provide for the emergency needs
19 of the City's residents or to preserve City property.
20

21 **PART 5.** Part 10 to Ordinance No. 20070621-152 is amended and renumbered to read:
22

23 **PART 11.**
24

25 If a term or provision of this ordinance is determined to be void or unenforceable
26 by a court or competent jurisdiction, the remainder of this ordinance [~~agreement~~]
27 remains effective.
28
29

30 **PART 6.** This ordinance takes effect on _____, 2010.

31 **PASSED AND APPROVED**
32

33 §
34 §
35 _____, 2010 § _____
36 Lee Leffingwell
37 Mayor
38
39

40 **APPROVED:** _____
41 David Allan Smith
42 City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk