

ORDINANCE NO. _____

AN ORDINANCE AMENDING CITY CODE CHAPTERS 2-9A, 2-9B, 2-9C, AND 2-9D RELATING TO THE MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISE PROCUREMENT PROGRAM.

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

PART 1. City Council adopts the following findings:

- (A) In 2013, the City commissioned a disparity study from National Economic Research Associates, Inc. (“NERA”) to develop evidence relevant to the City’s continuing compelling interest in remedying discrimination. The results of these efforts were presented in the December 2015 report entitled "Race, Sex, and Business Enterprise: Evidence from the City of Austin".
- (B) Based on the evidence from the 2015 Report, the City determined that:
 - i. Minorities and women are substantially and significantly less likely to own their own businesses as the result of discrimination than would be expected based upon their observable characteristics, including age, education, geographic location and industry.
 - ii. Minorities and women earn substantially and significantly less than their nonminority male counterparts.
 - iii. There are large, adverse, and statistically significant disparities between MBE/WBEs’ share of overall revenues and their share of overall firms in the U.S. as a whole, and in the State of Texas.
 - iv. There is evidence of discrimination against MBE/WBEs in the City of Austin market area for the small business credit market.
 - v. Anecdotal evidence from outreach meetings, mail surveys and personal interviews suggests that minorities and women continue to suffer discriminatory barriers to full and fair access to City of Austin, other public sector and private sector contracts.
 - vi. Despite the City's efforts to create equal opportunities in its marketplace, the evidence continues to indicate that, absent the MBE/WBE Program

authorized by City Code, MBEs and WBEs would be underutilized on City contracts relative to their availability.

- C. The City is authorized to establish race- and gender-conscious contracting goals, and if utilized, requires that goals be based on constitutional standards related to the City's marketplace.
- D. Under these circumstances and based on the factual predicate which has been established after careful study and review, the City still has a compelling governmental interest in remedying the racial and gender discrimination that exists in the market segments in which the City does business, and in ensuring that the City is not a participant in such discrimination, thereby allowing all segments of the Austin community to share in the economic benefits of the City.
- E. The MBE/WBE Program adopted by the City is narrowly tailored to remedy the discrimination described above and in City Code, and should be continued.

PART 2. City Code Section 2-9A-26 (*Sunset Provision*) is amended to read as follows:

§ 2-9A-26 SUNSET PROVISION.

This chapter of the Code expires at 5:00 p.m. on March 31, 2020 [2018], unless before that date the city council reauthorizes the program.

PART 3. City Code Section 2-9B-26 (*Sunset Provision*) is amended to read as follows:

§ 2-9B-26 SUNSET PROVISION.

This chapter of the Code expires at 5:00 p.m. on March 31, 2020 [2018], unless before that date the city council reauthorizes the program.

PART 4. City Code Section 2-9C-26 (*Sunset Provision*) is amended to read as follows:

§ 2-9C-26 SUNSET PROVISION.

This chapter of the Code expires at 5:00 p.m. on March 31, 2020 [2018], unless before that date the city council reauthorizes the program.

§ 2-9D-26 SUNSET PROVISION.

PART 6. This ordinance takes effect on _____, 2018.

_____, 2018

Steve Adler
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Jannette S. Goodall
City Attorney City Clerk