

RESOLUTION NO. 20200326-053

WHEREAS, the City of Austin first codified race- and gender-inclusive procurement policies with a Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) Procurement Program ordinance in 1987; and

WHEREAS, the City's MBE/WBE ordinance has been amended multiple times since then, including a significant reform in 2006 that outlined four City purchasing areas in which the MBE/WBE procurement program functions; and

WHEREAS, City Council is mindful and appreciative of the engagement of stakeholders and the work of the MBE/WBE/Small Business Enterprise Procurement Program Advisory Committee, as well as the work of City staff; and

WHEREAS, the City of Austin manages thousands of contracts worth billions of dollars, according to the City Auditor; and

WHEREAS, disparity studies performed for the City of Austin have estimated that there are significant disparities in the opportunities available to local minority- and women-owned businesses; and

WHEREAS, there exists a legal precedent for a strict scrutiny standard of judicial review regarding a government's use of purchasing power to support minority business communities, and a disparity study is required as a component to demonstrate the need for the establishment and continuation of such programs; and

WHEREAS, the City of Austin's Strategic Direction 2023 includes Economic Opportunity & Affordability and Government That Works for All as two of six strategic outcomes to guide effective City policies; and

WHEREAS, the disparity study was authorized by Council on January 23, 2020, and the initial recommendations are expected by March 2021; **NOW THEREFORE**,

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

No later than two weeks following the release of the disparity study, the City Manager is directed to convene an Inclusive Procurement Working Group (Work Group) comprised of, at a minimum, the Small and Minority Resources Department (SMBR) Director or representative of the Department, a representative from the MBE/WBE/Small Business Enterprise Procurement Program Advisory Committee, the City Controller or a representative from Financial Services, the Capital Contracting Office Director or representative, the Purchasing Office Director or representative, the City's Equity Officer or a representative, local minority- and women-owned businesses enterprise stakeholders, and a representative from the City of Austin's Law Department for consultation purposes.

The City Manager will ensure the Working Group receives a presentation of the findings of the 2021 disparity study.

The Working Group will review and assess programmatic and administrative issues related to the existing MBE/WBE procurement ordinance and recommend ways that the City could improve the function of the program to better meet the needs of the community while

remaining within the bounds of the City's legal authority. Issues to be reviewed should include:

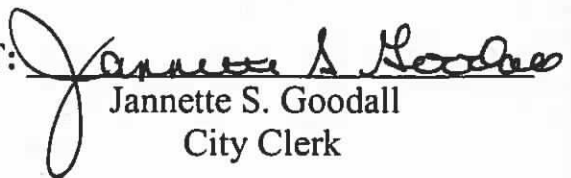
- Reciprocity of the City of Austin's MBE/WBE certification with the State of Texas' HUB certification or other regional certifications;
- Eligibility criteria for certification, including economic disadvantage criteria such as limit on personal wealth;
- Whether existing certification types are sufficient to cover the need for gender- and race-conscious remedies to demonstrated local industry disparities;
- Whether the four sections of the MBE/WBE ordinance sufficiently reflect the procurement methods used by the City;
- Best practices used by other cities in Texas and other cities outside Texas with populations and business environments comparable to those of Austin, both with respect to ordinances and the structure and functioning of comparable inclusive procurement programs;
- What methods could improve transparency in decision-making regarding MBE/WBE procurement policies in general and goals on individual projects;
- How communications and functions between SMBR and relevant contract management divisions within the Financial Services Office can be improved;

- Effective methods of outreach to improve participation among the MBE and WBE business communities, as well as to improve knowledge and information among the larger business community;
- What, if any, additional resources and services may be helpful for the City to offer to support MBE and WBE firms;
- Whether payment policies are effective in ensuring that both prime and subcontractor MBE/WBE firms are paid quickly and in full; and
- Prioritization of local businesses.

BE IT FURTHER RESOLVED:

The Working Group will meet monthly and present its first update to City Council no later than 3 months after its first meeting with a second presentation 2 months later. The Working Group will present its final recommendations to City Council 6 months following the eventual adoption of the disparity study that was authorized by City Council on January 23, 2020.

ADOPTED: March 26, 2020

ATTEST: 
Jannette S. Goodall
City Clerk