

SUBJECT:

Approve a resolution adopting the 2022 disparity study completed by Colette Holt & Associates regarding the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program and directing the City Manager to take necessary steps to continue the Program and implement recommendations as appropriate.

LEAD DEPARTMENT:

Small and Minority Business Resources

FISCAL NOTE:

There is no fiscal impact.

PRIOR COUNCIL ACTION:

January 23, 2020 – Council authorized a contract with Colette Holt & Associates, to conduct the disparity study. The motion authorizing negotiation and execution of a contract with Colette Holt & Associates was approved on consent on Council Member Casar's motion, Council Member Ellis' second on a 10-0 vote. Mayor Adler was absent.

FOR MORE INFORMATION CONTACT: Edward Campos, Director, Small and Minority Business Resources Department, (512) 974- 7206

BOARD AND COMMISSION ACTION:

July 12, 2022 – Briefing presented to the MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee.

July 26, 2022 – Briefing presented to the Hispanic/Latino Quality of Life Resource Advisory Commission.

August 2, 2022 – Briefing presented to the African American Resource Advisory Commission.

August 8, 2022 – Briefing presented to the LGBTQ Quality of Life Advisory Commission.

August 9, 2022 – Briefing presented to the Construction Advisory Committee.

August 16, 2022 – Briefing presented to the Asian American Quality of Life Advisory Commission.

September 13, 2022 – The MBE/WBE and Small Business Enterprise Procurement Program Advisory Committee
_____ on an _____.

ADDITIONAL BACKUP INFORMATION (RCA BODY)

The City's Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) Program (Program) is based on a series of disparity studies that were conducted in response to the 1989 U. S. Supreme Court decision, *City of Richmond v. J. A. Croson Co.* The *Croson* decision held that a local government may redress race discrimination in its contracting activities if it can demonstrate, through relevant evidence, a compelling governmental interest sought to be remedied, and if the remedies adopted are narrowly tailored to remedy the discrimination identified by way of the collected evidence.

In 2020, the City Council authorized an agreement with Colette Holt & Associates (CHA) to perform a disparity study examining the MBE/WBE Program for locally-funded contracts. CHA determined the City's utilization of MBE/WBE firms during fiscal years 2013 through 2018; the availability of these firms as a percentage of all firms in the City's geographic and industry market areas by funding source; and any disparities between the City's utilization of MBE/WBE firms and MBE/WBE firm availability for City contacts. CHA further analyzed disparities in the Austin Metropolitan Area and the wider Texas economy, where contracting affirmative action is rarely practiced, to evaluate whether barriers continue to impede opportunities for minorities and women when remedial intervention is not imposed. In addition, qualitative data about the experiences of MBE/WBE firms in obtaining City contracts and associated subcontracts was gathered and evaluated. Based on the findings, the MBE/WBE Program was evaluated for conformance with constitutional standards, national best practices, whether a disparity exists between the number of available MBE firms, WBE firms, Disadvantaged Business

RECOMMENDATION FOR COUNCIL ACTION

Enterprises, and veteran-owned businesses in the City's geographic and product markets and the number being utilized on City contracts, and to document any evidence of continued discrimination in the marketplace and the continued necessity of the Program.

Based on the results of the study, CHA provided key recommendations for the City's MBE/WBE Program, including:

- Use additional race-neutral measures as opposed to race-conscious measures
- Develop an annual procurement forecast
- Centralize the Program's data collection and reporting of the B2Gnow system
- Enhance strategies on professional services contracting processes
- Use the study availability data to assist in setting MBE/WBE contract goals
- Implement a comprehensive supportive services program
- Adopt a mentor-protégé program.

The study was presented to Council on June 14, 2022. The disparity study has been available to the public since June 29, 2022, posted on a dedicated webpage which features an email address (DisparityStudy@austintexas.gov) that is being promoted via social media and in communications to stakeholders, in order to encourage individuals to reach out with questions or comments. In addition to the briefings before specified boards and commissions, the department has provided briefings to the Inclusive Procurement Working group (June 17, 2022), the Minority Trade Associations (August 9, 2022), and the CIP Manager's Forum (July 27, 2022). The department also held two virtual public briefings (July 20, 2022), which are featured on the City's YouTube channel.

After approval of the resolution accepting the disparity study, staff will work with its stakeholders to consider revisions to the MBE/WBE Program ordinances and program rules and develop comprehensive support services to enhance participation of MBE/WBE firms and to reflect the conclusions and recommendations of the consultant.

Strategic Outcomes: Economic & Affordability; Government that Works for All