

Mayor and Council Communication

DATE: 10/19/21

M&C FILE NUMBER: M&C 21-0804

LOG NAME: 08FY2021AMENDBUSINESSEQUITYORDINANCE

SUBJECT

(ALL) Adopt Ordinance to Amend Ordinance No. 24534-11-2020 and Chapter 20, Licenses and Miscellaneous Business Regulations, Article X: Business Equity Firms of the City Code to Reflect Recommendations from the 2020 Fort Worth Disparity Study and Codify Current Processes

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance amending Ordinance No. 24534-11-2020 and Chapter 20, Licenses and Miscellaneous Business Regulations, Article X Business Equity Firms to make certain additions and clarifications. The additions and clarifications include: (1) certain aspects of the definition section; (2) adding a penalty schedule for failure to submit the required Business Equity Firm Utilization Plan, (3) adding additional contracts that are subject to the Ordinance; (4) adding certain protest procedures for vendors; and (5) adding Payment System Compliance Procedure.

DISCUSSION:

The Department of Diversity and Inclusion ("DVIN") determined that certain changes were necessary to Ordinance No. 54531-11-2020 ("Business Equity Ordinance") passed in November 2020 that amended Chapter 20, Article X of the City Code ("Article") in order to clarify the Article and add certain terms that reflect the business processes of the City and that will continue to reduce barriers to opportunities on City contracts for Business Equity Firms. Those changes are reflected on the attached Ordinance (in both a redlined and clean version) that amends the Article. The changes includes the following:

1. Clarifying certain definitions for Business Equity Firm, City Funds, Debarment, Marketplace, and Significant Business Presence.
2. Changing the requirements for "out of Marketplace" firms to qualify as a Business Equity Firm.
3. Stating that City participation of \$1,000,000 is required to set a Business Equity Goal for agreements relating to the construction of public infrastructure or a public building, such as Community Facilities Agreements and Infrastructure Construction Agreements.
4. Stating that the City shall not set separate local Business Equity goals on Community Development Block Grants, HOME programs, or other projects that include federal funds except where the City is mandated to set goals by state or federal requirements.
5. Stating that Business Equity Goals on may be established for tax abatement agreements and Chapter 380 grant agreements in accordance with the most recently adopted "Tax Abatement Policy" and "Chapter 380 Grant Agreement Policy."
6. Adding clarifying details for payment reporting in Business Equity Management System.
7. Adding clarification on Contract Compliance including 21-day bid advertisement requirement, Utilization Plans required by 2 p.m. on 3rd business day after notification of bidder selection.
8. Adding new processes to the Violations and Sanctions section including a non-responsive designation for not submitting Utilization Plan, Warning Letters, Temporary Suspension, and how Debarred vendors may apply to DVIN for reinstatement.
9. Adding clarifications the companies operating with Exclusive Contracts and Non-Compete Clauses must now show proof of growth in capacity and consent in order to qualify as a Business Equity Firm.
10. Adding clarifications to Business Equity Listings contractors can obtain a current list (dated not more than six (6) months old prior to the bid open date) of Business Equity Firms from the DVIN.
11. Providing that the bid protest procedure is aligned with City's general purchasing policy.
12. Providing that allegations of discrimination based on a protected class in the award or performance of a contract shall be submitted, in writing, to DVIN before the award of the contract or the performance of the Contract.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations will have no material effect on City funds.

Submitted for City Manager's Office by: Fernando Costa 6122

Originating Business Unit Head: Christina A. Brooks 8988

Additional Information Contact: JB Strong 7627

