

Memorandum

TO: LCRA Board of Commissioners
LCRA Executive Director

FROM: Brian Engel, Rouse Frets White Goss Gentile Rhodes, P.C.

DATE: November 28, 2018

RE: Uniform Affirmative Action Policy

On October 25, 2018, the City Council adopted Ordinance No. 180535 As Further Further Amended establishing new guidelines and procedures for implementation of the City's affirmative action policy. A copy of the ordinance is included in the board packet for this meeting.

Major changes in the ordinance include:

- Goals on professional services and goods contracts more than \$160,000 are to be set by the Fairness in Professional Services and Goods Board as provided in Sections 3-449(a) and 3-450(a).
- Goals on construction contracts more than \$300,000 are to be set by the Fairness in Construction Board as provided in Sections 3-451(a) and 3-453(a).
- The Good Faith Effort Standards in Section 3-441 are enhanced and now include a presumption of compliance if the developer performs the standards.
- Section 3-441 provides that Good Faith Effort determinations are to be made by either the Fairness in Professional Services and Goods Board, pursuant to the process set out in Sections 3-449 and 3-450(i), or the Fairness in Construction Board pursuant to the process set out in Sections 3-451 and 3-453(j), as applicable, and not LCRA (or other agency) if HRD and LCRA fail to agree.
- Section 3-447 provides that Liquidated Damages determinations are to be made by either the Fairness in Professional Services and Goods Board, pursuant to the process set out in Sections 3-449 and 3-450(i), or the Fairness in Construction Board pursuant to the process set out in Sections 3-451 and 3-453(j), as applicable, and not LCRA (or other agency) if HRD and LCRA fail to agree.
- Large MBE contractors can get participation credit for the total contract dollar amount that they self-perform under Section 3-435(a)(1).
- The 48-hour CUP requirement in Section 3-445 now expressly applies only to City contracts. For agency contracts, the CUP process is set out in Section 3-456, which requires that the CUP be approved before any agency may grant an incentive.

- MBE/WBE firms seeking certification must demonstrate they have personal net worth equal to or less than \$1.32 million under Section 3-461(c). This does not include the value of the owner's interest in the minority company or their primary residence.
- Section 3-463(a) requires that rules and regulations established by HRD must be approved by the City Council and be published. However, any rules and regulations of the Fairness in Professional Services and Goods Board or the Fairness in Construction Board are not required to be published.