

ORD-3625

1 AN ORDINANCE TO ADD CITY CODE SECTION 2-
2 224.14 TO REMEDY A STATISTICALLY
3 SIGNIFICANT DISPARITY BETWEEN THE
4 AVAILABILITY AND UTILIZATION OF MINORITY-
5 OWNED BUSINESSES BY ENACTING A PROJECT
6 GOALS PROGRAM

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8 SECTION ADDED: § 2-224.14
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10 WHEREAS, the City completed a Disparity Study, and the results were
11 provided to City Council in January of 2019;
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13 WHEREAS, the Disparity Study found a statistically significant disparity
14 between the availability and utilization in construction for Asian American-owned,
15 Black American-owned, and Hispanic American-owned businesses;
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17 WHEREAS, the Virginia Code provides authority for the City to enact a
18 racially conscious remedial measure if there is a persuasive analysis that
19 documents a statistically significant disparity between the availability and utilization
20 of minority-owned businesses;
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22 WHEREAS, the racially conscious measure described herein is intended to
23 be tailored to included only those subgroups of minority-owned businesses for
24 which the Disparity Study found a substantial disparity between availability and
25 utilizations.
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27 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
28 OF VIRGINIA BEACH, VIRGINIA:
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30 1. That the City Council accepts the findings of the Disparity Study that
31 there is a statistically significant disparity between the availability and utilization in
32 construction for Asian American-owned, Black American-owned, and Hispanic
33 American-owned businesses, which are set forth in the attached Exhibit A, and is
34 incorporated herein, and, accordingly, the City Council accepts the
35 recommendation of the Disparity Study to implement race-conscious project goals
36 for construction projects.
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38 2. That in furtherance of the above-stated desire and intent of the City
39 Council, the following section of the Code of the City of Virginia Beach shall be
40 added as follows:
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42 **Chapter 2. ADMINISTRATION**

43 **ARTICLE VI. FINANCE**
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Section 2-224.14. – Project Goals – Construction.

- (a) For a solicitation to purchase construction services with an estimated value of more than five million dollars (\$5,000,000), the Purchasing Agent or designee shall review the anticipated scope of work to make a determination as to whether there are sufficient subcontracting opportunities for meaningful minority-owned business project goals. In the setting of a project goal, the term “minority-owned business” shall mean only businesses owned by Asian Americans, Black Americans, and Hispanic Americans. In the development of the solicitation, the Purchasing Agent or designee in consultation with the City’s SWaM Business Office shall use the same or substantially similar goal-setting methodology as is utilized in the federal Urban Construction Initiative.
- (b) The project goal for the solicitation shall be a requirement for a responsive bid. Alternatively, a bidder may seek a waiver from the project goal requirement by submission of good faith efforts. The review of the request for a waiver shall use the same factors as set forth in § 2-224.2. Any determination of good faith efforts as a waiver shall be reduced to writing and made a part of the procurement record.
- (c) For purposes of classification as a minority-owned business for purposes of this section, the City shall allow certification through the Virginia Department of Small Business and Supplier Diversity or certification through the City’s SWaM Business Office.
- (d) The requirements of this section shall not apply to emergency procurements nor projects that include federal disadvantaged business enterprise requirements or similar requirements.
- (e) The Purchasing Agent shall provide quarterly reports to the City Council of all construction bids in excess of \$5 million, the project goal for each solicitation, and the results of the bids for such contracts, including the proposed minority-owned business subcontracting.

3. This ordinance shall expire on June 30, 2024, and Section 2-224.14 shall be repealed effective June 30, 2024.

Adopted by the Council of the City of Virginia Beach, Virginia, on the 16th day of June, 2020.