ORDINANCE NO: _____

AN ORDINANCE TO AMEND ORDINANCE NO. 4388, CODIFIED AS CITY CODE, ARTICLE 6, SECTION 2-331(a), TO EXTEND THE SUNSET CLAUSE SET FORTH THEREIN UNTIL JUNE 30, 2010.

WHEREAS, after full consideration of the factual findings established by comprehensive studies and reviews undertaken by expert consultants engaged by the City Administration, Ordinance No. 4388 was adopted on February 20, 1996 by the Memphis City Council based upon its determination that the City has a compelling interest to fully remedy the ongoing effects of past and present discrimination against African Americans and female business owners in both the public and private sectors of its marketplace; and

WHEREAS, The Council reasoned that as a passive participant in a system of racial and gender exclusion practiced by elements of the local construction, professional and supply industries, the City has an affirmative duty to dismantle such a system; and

WHEREAS, This affirmative duty includes the continuation of initiatives to encourage the development of local small businesses; and

WHEREAS, the City has a compelling interest to assure that public dollars derived from tax collection and revenues are not utilized to further discriminatory practices; and

WHEREAS, Ordinance No. 4388, as originally adopted, included a sunset provision which established that the ordinance and program would expire June 30, 2001; and

WHEREAS, since such time, Ordinance No. 4388 has been amended on numerous occasions to extend the sunset clause based upon the continuous need to provide time for the undertaking of a new disparity study; and

WHEREAS, the Council, having been informed that the disparity study data collection is complete and the processing of such data is still underway, having to take into consideration recent case law, desires to extend the current Ordinance sunset from June 30, 2009 to June 30, 2010; and

WHEREAS, the scheduled dates of deliverables and estimated date for completion of the disparity study are such that the process for soliciting public comment and timeframe for Council study should be sufficient before acting on the findings and recommendations related to said ordinance, and after consideration it is deemed in the best interests of the citizens of the City of Memphis that said ordinance be amended.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Ordinance No. 4388, codified as City Code Article 6, Division 5, Section 2-331 is hereby revised to amend subsection (a) by extending the current termination date of June 30, 2009 to June 30, 2010 and to read as follows:

"Section 2-331(a). Miscellaneous.

(a) Sunset Clause. The Minority and Women Owned Business Enterprise Procurement Program shall expire on June 30, 2010, unless prior to such date the City Council, after conducting public hearings, finds that the purposes of this division have yet to be achieved, in which case it may extend the effective period of this division for an additional five (5) years."

SECTION 2. BE IT FURTHER ORDAINED, that all other terms and conditions of Ordinance No. 4388, codified as City Code Article 6, Division 5, Section 2-331(a) shall remain in full force and effect through such extension date of June 30, 2010.

SECTION 3. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 4. BE IT FURTHER ORDAINED, that this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairperson of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

MYRON LOWERY
Chairperson of Council

Attest:
Patrice Thomas, Comptroller