

THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL**

IN AMENDMENT OF CHAPTER 3.08 OF THE CODE OF THE CITY OF CRANSTON,  
2005, ENTITLED "CONTRACTS AND PURCHASES"

(Creating the MINORITY OWNED BUSINESS ENTERPRISE, WOMEN MINORITY  
OWNED BUSINESS ENTERPRISE AND VETERAN OWNED BUSINESS  
ENTERPRISE)

No.

*Passed:*

\_\_\_\_\_  
*Michael J Farina, Council President*

*Approved:*

\_\_\_\_\_  
*Allan W. Fung, Mayor*

*It is ordained by the City Council of the City of Cranston as follows:*

**SECTION 1:** Title 3, Chapter 3.08, is hereby amended by adding the following:

**3.08.100 – Minority, Women, Veteran Business Enterprises**

**Definitions of Terms**

(a) "*Affirmative action*" means taking specific steps to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve minority business enterprises fully in contracts and programs funded by the state.

(b) "*Bidder*" means any individual, organization, corporation, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted that is submitting a quite or bid in response to a solicitation by the City of Cranston Purchase Office or any other City of Cranston department.

(c) "*Compliance*" means the condition existing when a contractor has met and implemented the requirements of this chapter.

(d) "*Contract*" means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this chapter, a lease is a contract.

(e) "*Contractor*" means one who participates, through a contract or subcontract, in any procurement or program covered by this chapter and includes lessees and material suppliers.

43 (f) “*Certified*” means an applicant firms which has been reviewed by the State of Rhode Island  
 44 Department of Administration and found to have met the certification requirement provided in  
 45 these regulations.

46 (g) “*Construction*” means construction, alteration, or repair (including dredging, excavating and  
 47 painting) of buildings, structures, or other real property.

48 (h) “*Minority*” means a person who is a citizen or lawful permanent resident of the United States  
 49 and who is:

- 50 (1) Black (a person having origins in any of the black racial groups of Africa);
- 51 (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or  
 52 other Spanish culture or origin, regardless of race);
- 53 (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin,  
 54 regardless of race);
- 55 (4) Asian American (a person having origins in any of the original peoples of the Far  
 56 East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
- 57 (5) American Indian and Alaskan Native (a person having origins in any of the original  
 58 peoples of North America); or
- 59 (6) Members of other groups or other individuals found to be economically and socially  
 60 disadvantaged by the Small Business Administration under § 8(a) of the Small Business  
 61 Act, as amended, 15 U.S.C. § 637(a).

62 (i) “*Minority Business Enterprise*” or “*MBE*” means a small business concern, as defined  
 63 pursuant to § 3 of the federal Small Business Act, 15 U.S.C. § 632, and implementing regulations,  
 64 which is owned and controlled by one or more minorities or women. For the purposes of this  
 65 chapter, owned and controlled means a business:

- 66 (1) Which is at least fifty-one percent (51%) owned by one or more minorities or women  
 67 or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock  
 68 of which is owned by one or more minorities or women; and
- 69 (2) Whose management and daily business operations are controlled by one or more such  
 70 individuals.

71 (j) “*Request for Proposals*” or “*RFP*” means a solicitation for competitive offers where lowest  
 72 price is not the sole or primary consideration to be used in determining an award or any other  
 73 solicitation that is identified and classified by the City of Cranston as a request for proposals.  
 74

75 (k) “*Request for Quotes*” or “*RFQ*” means a solicitation for competitive offers where lowest  
 76 price is the sole or primary consideration to be used in determining an award or any other  
 77 solicitation that is identified and classified by the City of Cranston as a request for quotes.  
 78

79 (l) “*Women Business Enterprise*” or “*WBE*” means a small business concern, as defined  
 80 pursuant to [Section 3](#) of the Federal Small Business Act (15 USC Section 632) and  
 81 implementing regulations, which is owned and controlled by one or more women.  
 82  
 83  
 84

85 (m) "*Veteran Business Enterprise*" or "*VBE*" small business which is at least:

86 (1) Fifty-one percent (51%) owned and controlled by one or more socially and  
87 economically disadvantaged veterans, or

88 (2) In the case of a publicly owned business, at least fifty-one percent (51%) of the stock  
89 of which is owned by one or more socially and economically disadvantaged veterans, and

90 (3) Whose management and daily business operations are controlled by those same  
91 socially and economically disadvantaged veteran owners. Ownership must be real,  
92 substantial, and continuing, and the veteran applicant must have and exercise the  
93 authority to independently control the business decisions of the enterprise.

94 (4) Be a small business concern as defined pursuant to the U.S. Small Business  
95 Administration criteria and size standard in 13.C.F. R. Part 121

96 (5) Owner(s) must be a veteran found to be economically disadvantaged, in accordance  
97 with 49.C.F.R. Part 26.

98 (5) The business must be in operation a minimum of six (6) months prior to applying for  
99 certification.

100 (6) Existing businesses whose ownership and control have been transferred to veterans  
101 must be in the control of the veterans a minimum of six (6) months prior to applying for  
102 certification.

103

104 (n) "*Veteran*" means a person who served on active duty with the U.S. Army, Air Force, Navy,  
105 Marine Corps or Coast Guard, for a minimum of one hundred eighty (180) days and who was  
106 discharged or released under conditions other than dishonorable. Reservists or members of the  
107 National Guard called to federal active duty (for other than training) or disabled from a disease  
108 or injury incurred or aggravated in the line of duty or while in training also qualify as a veteran  
109 pursuant to 38 C.F.R. Part 74.

110 (o) "*MBE coordinator*" means the official and or purchasing agent designated to have overall  
111 responsibility for promotion of minority business enterprise in his or her departmental element.

112 (p) "*Noncompliance*" means the condition existing when a recipient or contractor has failed to  
113 implement the requirements of this chapter.

## 114 **Section 2.**

### 115 Purpose.

116 The purpose of this section is to increase and carry out the city's and state policy of supporting  
117 the fullest possible participation of firms owned and controlled by minorities (**MBEs**), women  
118 (WBEs) and (VBEs) in city and state funded directed public construction programs and  
119 projects in municipal purchases of goods and services through solicitation of Request for  
120 Proposals (RFP) and/or Request for Proposals (RFP). This includes assisting **MBEs**, WBEs  
121 and VBEs throughout the life of contracts in which they participate. It is in the best interest of  
122 the city to promote the equitable utilization of **MBEs**, WBEs and VBEs in city contracting; that  
123 the requirements of this chapter are necessary to overcome the present effects of discrimination  
124 and are designed to achieve the goal of equitable utilization of **MBEs**, WBEs and VBEs while  
125 at the same time maintaining a high quality of goods and services provided to the city through  
126 competitive bidding as required by city ordinance.

127

128

129 Policy.

130 It is the policy of the City of Cranston that: minority business enterprises (MBEs), women  
131 business enterprises (WBEs), veteran business enterprises (VBEs) shall have the maximum  
132 opportunity to participate in the performance of procurements and projects as prime  
133 contractors and vendors. In addition, prime contractors shall utilize MBEs, WBEs and VBEs so  
134 as to enable the city, its purchasing department, and all its contracting departments to meet or  
135 exceed the goals set forth in this section. The utilization of MBEs, WBEs and VBEs as  
136 subcontractors and/or suppliers to the prime contractor, and/or the use of minority and women  
137 laborers, will be considered in determining the lowest possible bidder.

138

139 Applicability:

140 This chapter shall apply to any and all state and city reimbursement and funded projects,  
141 constructions and purchasing, but not limited to the procurement of goods, services,  
142 construction projects, or contracts funded in a whole or in part by state funds, city funds, or  
143 funds which, in accordance with federal grant or otherwise, the state expends or administers.

144

145 Discrimination Prohibited.

146 No person shall be excluded from participation in, denied the benefits of, or otherwise  
147 discriminated against in connection with the award and performance of any project or contract  
148 covered by this chapter, on the grounds of race, color, national origin or sex.

149

150 Minority Business Enterprises.

151 **Minority Business Enterprise (MBE)** shall be included in all requests for procurements under  
152 this chapter and the city shall strive to achieve each of the goals hereinafter established. Upon  
153 passage of this section, the city shall utilize the goal of ten (10) percent which is presently  
154 being used by the State of Rhode Island as found in P.L. 1986, Ch. 493, [Section 1](#), as amended  
155 R.I.G.L. § 37-14.1 et seq. and the "Regulations Governing Participation by Minority Business  
156 Enterprises in State Funded and Directed Public Construction Projects, Construction Contracts  
157 and Procurement Contracts for Goods and Services" promulgated by the State of Rhode Island  
158 Department of Administration, where not inconsistent with this section. Upon completion of  
159 the so-called "predicate study" which will be undertaken, the goals for MBEs will be  
160 readjusted based upon the findings contained in said "predicate study" for the first year  
161 immediately following submission and acceptance of the said "predicate study" by the city  
162 council, increasing annually in each successive year by the recommended percentage contained  
163 in the said "predicate study" until either the final goal of participation of MBEs in all  
164 procurements for goods and services has been achieved or that the program created by this  
165 section terminates.

166

167

168 Women Business Enterprises.

169 Woman Business Enterprise (WBE) shall be included in all requests for procurements under  
170 this chapter and the city shall strive to achieve each of the goals hereinafter established. Upon  
171 passage of this section, the city shall utilize the goal of ten (10) percent which is presently  
172 being used by the State of Rhode Island as found in P.L. 1986, Ch. 493, [Section 1](#), as amended  
173 R.I.G.L. § 37-14.1 et seq. and the "Regulations Governing Participation by Minority Business  
174 Enterprises in State Funded and Directed Public Construction Projects. Construction Contracts  
175 and Procurement Contracts for Goods and Services" promulgated by the State of Rhode Island  
U/Ordinances/Minority and Women Business Enterprises

176 Department of Administration, where not inconsistent with this section. Upon completion of  
 177 the so-called "predicate study" which will be undertaken, the goals for WBEs will be  
 178 readjusted based upon the findings contained in said "predicate study" for the first year  
 179 immediately following submission and acceptance of the said "predicate study" by the city  
 180 council, increasing annually in each successive year by the recommended percentage contained  
 181 in the said "predicate study" until either the final goal of participation of WBEs in all  
 182 procurements for goods and services has been achieved or that the program created by this  
 183 section terminates.

184

### 185 Veteran Business Enterprise

186 (a) Per RIGL §37-14.3-4 Veterans-owned small business enterprise participation, the state's  
 187 annual goal for veteran-owned small business enterprises to participate in state procurements  
 188 shall be no less than three percent (3%) of the total value of all contracts available to businesses  
 189 in each fiscal year. The director of the department of administration is authorized and directed to  
 190 establish by rules and regulations formulas for giving veteran-owned small business enterprises a  
 191 preference in all procurements and public works projects and in contract and subcontract awards.

192 (b) The director of the department of administration is further authorized to establish, by rules  
 193 and regulations adopted in accordance with chapter 35 of title 42, compliance formulas,  
 194 procedures for implementation, and procedures for enforcement.

### 195 Review.

196 This section shall be reviewed by the city council every five (4) years starting in calendar year  
 197 2021 or when a Rhode Island General Law has been changed to ascertain the need for  
 198 adjustments and/or termination of the program if its goals are being consistently met.

199

### 200 Sanctions.

201 The City of Cranston Board of Contract and Purchase shall have the power to impose sanctions  
 202 upon contractors or vendors not in compliance with this section and shall include but not be  
 203 limited to (1) suspension of payment; (2) termination of the contract; (3) recovery by the city  
 204 of ten (10) percent of the contract award price as liquidated damages; and (4) denial of right to  
 205 participate in future projects for up to three (3) years. Additional sanctions for non-compliance  
 206 per Rhode Island General Law §37-14. 1-8, the Director of the Department of Administration  
 207 shall have the power to impose sanctions upon vendors not in compliance with RIGL § 37-14-  
 208 14.1.

209

### 210 Rules and Regulations.

211 It shall be the duty of the board of contract and purchase to adopt reasonable rules, regulations  
 212 and procedures to ensure compliance with this section.

213

### 214 Process and Certification.

215 The City of Cranston, MBE/WMBE coordinator, purchasing agent, or such other appropriate  
 216 person(s) shall request from bidders/vendors a official State of Rhode Island certification as an  
 217 MBE, WBE or VBE pursuant to Rhode Island General Laws § 37-14.1-7 which relates to  
 218 Minority Business Enterprise and Rhode Island General Laws § 42-35-1 relating to the  
 219 Administrative Procedure Act, the Rhode Island Department of Administration, Diversity,  
 220 Equity and Opportunity has developed Rules and Regulations governing the certification and  
 U/Ordinances/Minority and Women Business Enterprises

221 decertification of small businesses that are owned and controlled by minorities, woman or  
222 disadvantage individuals to participate in state and federal programs administered by the State of  
223 Rhode Island. which must be complete and submitted to the City of Cranston Purchase Office.  
224 To qualify as Minority Business Enterprise (MBE) and Woman Minority Business Enterprise  
225 (WBE) a firm must first meet eligibility standards established in Chapter 37 -14-.1-7. To qualify  
226 as a Veteran Business Enterprise (VBE) a firm must first meet eligibility established in RIGL  
227 §37-14.3-4 Veterans-owned small business enterprise participation.

228  
229 The City of Cranston does authorize and/or issue eligibility state certification for Minority  
230 Business Enterprise (MBE), Woman Business Enterprise (WBE) or Veteran Business Enterprise  
231 (VBE). All certification shall be done through the State of Rhode Island Department of  
232 Administration Office of Diversity, Equity & Opportunity, MBE Compliance Office.  
233

234 Roll of Information.

235 The City of Cranston shall add language and/or hyperlink pertaining to this ordinance:  
236 *3.08.100 – Minority, Women, Veteran Business Enterprises - CHAPTER 3.08 OF THE CODE*  
237 *OF THE CITY OF CRANSTON, 2005, ENTITLED “CONTRACTS AND PURCHASES”*  
238 on the official City of Cranston website within the Purchase Department webpage.

239  
240 **SECTION 2:** This Ordinance shall take effect upon its final adoption.

241			
242	Positive Endorsement		Negative Endorsement (attach reasons)
243			
244			
245	_____	_____	_____
246	City Solicitor	Date	City Solicitor Date
247			
248	Sponsored by Councilmembers Vargas, Donegan, Germain, Hopkins and Council President		
249	Farina		
250			
251	Referred to Finance Committee September 14, 2020		