

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 "REVENUE AND FINANCE – CONTRACTS AND PURCHASES"

No.

Passed:

Christopher G. Paplauskas, Council President

Approved:

Kenneth J. Hopkins, Mayor

It is Ordained by the City of Cranston City Council as follows:

Section 1. Title 3, Chapter 3.08 is hereby amended by adding the following Section entitled "Minority and Women Business Enterprises":

3.08.090 Minority and Women Business Enterprises

8.08.091 Definitions

The following definitions shall be for purposes of this chapter only, unless specifically adopted in another section of the Cranston Code of Ordinances:

"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 in whole or in part by city funds, or funds which, in accordance with federal grant, state funds or otherwise, the city expends or administers or in which the city is a signatory to a contract.

"Bidder" means any individual, organization, corporation, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted and which submits a quote, offer or bid in response to the solicitation of the same by the City.

"City" means any department, authority, governmental subdivision, or quasi-public agency of the City of Cranston (herein referred to collectively or individually as the "City" or "city").

"Compliance" means that a bidder has met and implemented the requirements of this chapter.

"Contract" means a mutual binding legal relationship or any modification thereof obligating the successful bidder to furnish supplies or services, including construction services, and the city to pay

48 for them. For purposes of this chapter, any lease is a contract.

49 “Contractor” means any successful bidder who is a person or entity participating, through contract
50 or subcontract, in any procurement, program or service covered by this chapter, including leases and
51 material suppliers.

52
53 “Certified” means any bidder or contractor deemed to be certified within the meaning of this
54 chapter.

55
56 “Construction” means any act of building, constructing, altering, maintaining or repairing
57 (including dredging, excavating and painting) of city buildings, structures or other real property.

58
59 “Minority” means a person who is a citizen or lawful permanent resident of the United States and
60 who is:

- 61
- 62 (1) Black - a person having origins in any of the black racial groups of Africa; or
 - 63 (2) Hispanic – a person of Mexican, Puerto Rican, Cuban, Central or South American or other
64 Spanish culture or origin, regardless of race; or
 - 65 (3) American Indian or Native American or Alaskan Native – a person having origins in any of
66 the original peoples of North America; or
 - 67 (4) Portuguese – a person having origins in any of the original peoples of Portugal or the
68 Azores, regardless of race; or
 - 69 (5) Asian – a person having origins in any of the original peoples of the Far East, Southeast
70 Asia, the Indian subcontinent, or the Pacific Islands; or
 - 71 (6) Members of other groups or other individuals found to be economically and socially
72 disadvantaged by the Small Business Administration under §8(a) of the Small Business
73 Act, as amended 15 U.S.C. §637(2).

74 “Minority Business Enterprise” or “MBE” and “Women Business Enterprise” or “WBE” means a
75 small business concern, as defined pursuant to §3 of 15 U.S.C. §632 (commonly known as “Federal
76 Small Business Act”) and implementing regulations, which is owned and controlled by one or more
77 minorities. For purposes of this chapter, “owned” or “controlled” means a business:

- 78 (1) which is at least fifty-one percent (51%) owned by one or more minorities or women and, in
79 the case of a publicly owned business, at least fifty-one percent (51%) of the stock of which
80 is owned by one or more minorities or women; and
81 (2) the management and daily business operations of which is controlled by one or more such
82 individuals.

83 “MBE Coordinator” means any official or purchasing agent so designated by the city as the person
84 responsible for promotion of minority business enterprise interest within the city.

85
86 “Noncompliance” means the condition existing when a bidder, successful bidder or contractor has
87 failed to implement the requirements of this chapter.

88
89 “Request for Proposals” or “RFP” means a solicitation for competitive bids where lowest price is
90 not the sole or primary consideration to be used in determining an award or any other solicitation
91 that is identified and classified by the city as a request for proposals.

92

93 “Request for Quotes” or “RFQ” means a solicitation for competitive offers where lowest price is not
 94 the sole or primary consideration to be used in determining an award or any other solicitation that is
 95 identified and classified by the city as a request for quotes.
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97 3.08.092 Policy – Purpose - Applicability
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99 (a) Policy – It shall be the policy of the city to:

- 100
 101 (1) maximize the opportunity for MBEs and WBEs to participate in the performance of
 102 procurements and projects as prime contractors, subcontractors and vendors as
 103 outlined in this chapter.
 104 (2) ensure that prime contractors shall utilize MBEs and WBEs so as to enable the city,
 105 its purchasing department, and all its contracting departments to meet or exceed the
 106 goals set forth in this chapter
 107 (3) ensure the utilization of MBEs and WBEs as subcontractors and/or suppliers to the
 108 prime contractor, and/or the use of minority and women laborers, shall be considered
 109 in determining the lowest possible bidder.
 110 (4) ensure that no person shall be excluded from participation in, denied the benefits of,
 111 or otherwise discriminated against in connection with the award and performance of
 112 any project or contract covered by this chapter, on the grounds of race, color,
 113 national origin or sex.

114
 115 (b) Purpose – The purpose of this section is to carry out the city's policy of supporting, to the
 116 fullest extent possible, participation of MBEs and WBEs in city funded and directed public
 117 construction programs and projects and in municipal purchases of goods and the
 118 procurement of services. This includes assisting MBEs and WBEs throughout the life of
 119 contracts in which they participate.
 120

121 (c) Applicability – This section shall apply to any and all city purchasing, including, but not
 122 limited to, the procurement of goods and services, and construction projects or contracts
 123 funded in whole or in part by city funds, or funds which, in accordance with federal grant,
 124 state funds or otherwise, the city expends or administers or in which the city is a signatory to
 125 the construction contract.
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127 3.08.093 MBEs and WBEs - Goals

128 (a) MBEs shall be included in all requests for procurements under this chapter and the city shall
 129 strive to achieve each of the goals hereinafter established. Upon passage of this section, the
 130 city shall utilize the goal of ten (10) percent which is presently being used by the State of
 131 Rhode Island as set forth in R.I. Gen. Laws § 37-14.1 et seq. and the "Regulations
 132 Governing Participation by Minority Business Enterprises in State Funded and Directed
 133 Public Construction Projects, Construction Contracts and Procurement Contracts for Goods
 134 and Services" promulgated by the State of Rhode Island Department of Administration,
 135 where not inconsistent with this section. Upon completion of a so-called "predicate study"
 136 which will be undertaken, the goals for MBEs will be readjusted based upon the findings
 137 contained in said "predicate study" for the first year immediately following submission and
 138 acceptance of the said "predicate study" by the city council, increasing annually in each

139 successive year by the recommended percentage contained in the said "predicate study" until
140 either the final goal of participation of MBEs in all procurements for goods and services has
141 been achieved or that the program created by this section terminates.

142 (b) WBEs shall be included in all requests for procurements under this chapter and the city shall
143 strive to achieve each of the goals hereinafter established. Upon passage of this section, the
144 city shall utilize the goal of ten (10) percent which is presently being used by the State of
145 Rhode Island as set forth in R.I. Gen. Laws § 37-14.1 et seq. and the "Regulations
146 Governing Participation by Minority Business Enterprises in State Funded and Directed
147 Public Construction Projects. Construction Contracts and Procurement Contracts for Goods
148 and Services" promulgated by the State of Rhode Island Department of Administration,
149 where not inconsistent with this section. Upon completion of a so-called "predicate study"
150 which will be undertaken, the goals for WBEs will be readjusted based upon the findings
151 contained in said "predicate study" for the first year immediately following submission and
152 acceptance of the said "predicate study" by the city council, increasing annually in each
153 successive year by the recommended percentage contained in the said "predicate study" until
154 either the final goal of participation of WBEs in all procurements for goods and services has
155 been achieved or that the program created by this section terminates.

156 3.08.094 Advisory Commission

157 (a) Within one hundred twenty (120) days of enactment, the mayor and city council will
158 convene a special seven-person advisory group whose name shall be "The Commission on
159 Minority and Women Business Development". The mayor shall appoint three (3) persons to
160 the advisory group and four (4) persons shall be appointed by the city council. The
161 commission shall elect a chair and vice-chair from its membership. Roberts Rules of Order
162 shall govern the conduct of all meetings. All meeting shall comply with R.I. Gen. Laws §
163 38-2-1 et seq. (commonly known as the Access to Public Records Act) and § 42-46-1 et seq.
164 (commonly known as the Opens Meetings Act).

165 (b) The commission shall be concerned with the predicate study, program development (i.e.,
166 procedures, standards, general requirements, special contract language, supportive services,
167 etc...) and monthly monitoring, the identification of MBE/WBE publications for the
168 dissemination of bid notices and program announcements, coordination with other
169 MBE/WBE small business advisory groups, the submission of annual reports to the mayor
170 and city council on the progress of the program, and the examination of national, regional,
171 and local demographic/economic trends and their effects on the local MBE/WBE
172 community.

173 (c) The city council shall provide by ordinance sufficient funds to carry out these and other
174 relevant responsibilities, and shall provide for a program administrator within the
175 classification ordinance to administer this program.

176 3.08.095 Process and Certification

177 All bidders and vendors shall be required to furnish to the city, its purchasing agent and MBE
178 program coordinator proof of MBE certification that it has met the eligibility standards of R.I. Gen.
179 Laws § 37-14.1-7.

180 The State of Rhode Island Department of Administration Office of Diversity, Equity and
181 Opportunity, MBE Compliance Office shall issue all certifications. The city shall not certify MBE
182 eligibility.

183 3.08.096 Implementation and Oversight

184 (a) Rules and Regulations – It shall be the duty of the board of contract and purchase to adopt
185 reasonable rules, regulations and procedures to ensure compliance with this section.

186 (b) Sanctions – The board of contract and purchase shall have the power to impose sanctions
187 upon contractors or vendors not in compliance with this section and shall include but not be
188 limited to (1) suspension of payment; (2) termination of the contract; (3) recovery by the
189 city of ten percent (10%) of the contract award price as liquidated damages; and (4) denial
190 of right to participate in future projects for up to three years.

191 (c) Waiver – The provisions of this section may only be waived upon certification to the board
192 of contract and purchase by the purchasing agent that no MBEs or WBEs provide the
193 required goods and/or services, that they are so expensive as to be prohibitive to utilizing an
194 MBE or WBE or that the effect upon the party requesting the waiver is such that it puts
195 them at a competitive disadvantage.

196 (d) Review – This Chapter shall be reviewed by the city council as often they deem necessary
197 and as they are able within a term, but not more than every four (4) years to ascertain the
198 need for adjustments to and/or termination of the program so long as program goals have
199 been achieved.

200 **Section 2.** This Ordinance shall take effect upon its final adoption.

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204 Positive Endorsement:

Negative Endorsement: (Attach reasons)

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208 _____
City Solicitor Date

_____ Date
City Solicitor

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211 Sponsored by Councilwomen Vargas, Marino, Councilman Donegan and Council Vice-President
212 Ferri

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214 Referred to Ordinance Committee November 9, 2021