

AN ORDINANCE AMENDING ORDINANCE NO. 3,
ADOPTED BY THE CITY COUNCIL ON JULY 12, 2023,
ENTITLED "AN ORDINANCE REQUESTING PERMISSION
TO ESTABLISH MINORITY AND WOMEN BUSINESS
ENTERPRISE GOALS AND MINORITY WORKFORCE
PARTICIPATION GOALS"

The City of Mount Vernon, in City Council convened, does hereby ordain, and enact:

Section 1. The first decretal paragraph, and Section 2 of Ordinance No. 3, adopted by the City Council on July 12, 2023, entitled "AN ORDINANCE REQUESTING PERMISSION TO ESTABLISH MINORITY AND WOMEN BUSINESS ENTERPRISE GOALS AND MINORITY WORKFORCE PARTICIPATION GOALS" is hereby amended as follows:

Whereas, the City of Mount Vernon seeks to encourage the growth and development of Minority and/or Women Business Enterprises (M/WBE) in our local economy; and

Whereas, the City seeks to ensure that M/WBEs have the opportunity to participate in the many projects the City funds annually, including those in public works, professional services, and the purchases of goods and services; and

Whereas, the State of New York, pursuant to Executive Law Article 15-A, has established a statewide M/WBE goal of 30% of annual expenditures in four categories of contracts: construction, construction consultants, service consultants, and commodities; and

Whereas, the City of Mount Vernon seeks to promote the use of M/WBE sub-contracts and joint ventures in addition to M/WBE prime contracts; and

Whereas, the City of Mount Vernon seeks to allow contractors to fulfill their M/WBE Participation Goal Requirements in three ways: self-performance as City-certified M/WBE prime contractors, by utilizing City-certified M/WBE subcontractors, and through Qualified Joint Ventures in which the City-certified M/WBE Partner is entitled or exposed to at least 25% of the profit and loss from the Project; and

Whereas, the City seeks to improve local employment opportunities for City residents to promote the welfare of our citizens; and

Whereas, setting workforce participation goals has proven to improve employment opportunities for minorities and women; Now, Therefore, Be It Ordained, by the City Council of the City of Mount Vernon as follows:

Section 1. The City of Mount Vernon shall, to the extent practicable, model its M/WBE goals pursuant to New York State Executive Law Article 15-A.

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Section 2. The City of Mount Vernon hereby establishes the goal that M/WBEs will receive 10% of the total annual contract awards for three types of City contracts, along with aggregate minority and women award goals, as stated below:

Contract Type	Aggregate Annual Award	Aggregate Annual Award: Minorities	Aggregate Annual Award: Women
Public Works Construction Projects	10%	5%	5%
Public Works Consultants	10%	5%	5%
Professional Services Consultants	10%	5%	5%

Section 3. The City of Mount Vernon hereby establishes the goal that M/WBEs will receive the following percentages of annual contract awards for City commodity (goods and services) contracts, along with aggregate minority and women award goals, effective as stated below:

<u>Contract Type</u>	<u>Aggregate Annual Award</u>	<u>Aggregate Annual Award: Minorities</u>	<u>Aggregate Annual Award: Women</u>
<u>Commodity Contracts after July 1, 2023</u>	<u>10%</u>	<u>5%</u>	<u>5%</u>

Section 4. A contractor, vendor, or consultant shall be eligible for meeting M/WBE goals if it:

1. Is a state-certified M/WBE or registered with Westchester County as a M/WBE at the time of the contract award. State certification requires that a business be at least 51% owned and controlled by minorities, women, or both. The Westchester County registration process must be completed prior to the contract award and a business must be at least 51% owned and controlled by minorities (M), women (W), or throughout the duration of the contract. Minority shall be defined consistent with state and federal definitions, which currently a person classified as Black, Hispanic, American Indian or Alaskan Native, and Asian or Pacific Islander; and
2. The contractor, vendor, or consultant has bona fide offices and operations in the Empire State Development Mid-Hudson Region ("Region"), which includes the counties of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester. State-certified M/WBE businesses from outside the Region may be counted if there are insufficient businesses in the Region to perform the specialized work or consulting service required. State-certified M/WBE businesses from outside the Region may be counted if there are fewer than three (3) eligible M/WBE businesses in the Region to perform the specialized work or consulting services required.

Section 5. Aggregate annual goal achievement shall be based on the value of city contracts awarded within the fiscal year to both M/WBE prime contractors and subcontractors and reported for four different contract categories: public works contracts, public works professional consulting contracts, all other professional services consulting contracts, and City contracts for commodities.

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Section 6. For construction, construction consultants, service consultants, and commodity contracts, responding companies shall receive additional evaluation weighting points as follows:

<u>Responding Company</u>	<u>Weight Awarded</u>
<u>Prime contractor is an M/WBE</u>	<u>10%</u>
<u>Uses 10-20% M/WBE Subcontractors</u>	<u>5%</u>
<u>Uses More Than 20% M/WBE Subcontractors</u>	<u>10%</u>
<u>Joint Venture with a Certified M/WBE Partner with at least a twenty-five (25%) stake in profits and losses</u>	<u>10%</u>

Section 7. For City commodity (goods and services) contracts, the City shall permit a 5% price advance to M/WBE bidders for contracts awarded based upon best value.

Section 8. There shall hereby be a Technical Assistance Plan Committee composed of seven members appointed by the Mayor. Such Committee shall include the Comptroller, three Department/Agency Heads as well as one African-American, one Hispanic, and one woman, each of whom shall own or control a M/WBE in accordance with this ordinance. The Comptroller and Department Heads shall be empowered to designate a duly authorized representative to serve in his or her stead when necessary. This Committee shall develop a comprehensive technical assistance plan to achieve these goals which may include:

1. Targeted outreach and assistance to M/WBEs to provide educational, technical, and informational assistance regarding public bidding and purchasing and procurement requirements through seminars, pamphlets, and informational guides.
2. Incentives for non-M/WBE contractors to partner with M/WBE in subcontracting opportunities.
3. Monitoring and enforcement mechanisms to ensure compliance with these goals, including recommendations of specific actions or procedures reasonably calculated to remedy any problems identified as an impediment to the full and meaningful participation by M/WBEs.

All members of the Technical Assistance Plan Committee shall serve without compensation but shall be entitled to receive all reasonable expenses actually incurred in the performance of their duties.

Section 9. Minority workforce goals shall be incorporated into all City public works and professional services consulting contracts. At least 15% of the total workforce hours in public works and professional services consulting shall be performed by minority workers. At least 5% of the total workforce hours in public works and professional services consulting contracts shall be performed by women workers.

Section 10. Contractors must provide detailed information on their workforce participation on a semi-annual basis, including the total number of employees, demographic breakdown by race, gender and ethnicity, job categories, hours worked, and wages paid, to the Director of Economic Development. If there is a vacancy in the position of the Director of Economic Development position, the Purchasing Agent shall fulfill the Duties of the Director of Economic Development. Contractors should also include the participation of M/WBE subcontractors and suppliers.

Section 11. Each City department shall keep accurate records relating to the contracting process, including but not limited to, contracts awarded by or on behalf of that department including statistics on the participation of M/WBEs. Such records shall,

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at a minimum, identify the type and amount of each contract as well as whether the contractor is a M/WBE. Each City department shall be required to file an annual report including identifying the extent and nature of participation by M/WBEs with respect to contracts awarded by or on behalf of such department. The annual report must be filed with the Mayor and the Office of the City Clerk.

Section 12. The City of Mount Vernon shall establish and maintain a list of M/WBEs as defined in this ordinance. A copy of said list shall be kept in the Office of the City Clerk and the Office of the Comptroller. Such list of M/WBEs shall identify suppliers and contractors by product, service, and capability as appropriate and may contain such other relevant information regarding previous work history. Such lists shall be disseminated to Department Heads on a semi-annual basis or more often as requested in connection with a specific contract or procurement.

Section 13. The Purchasing Agent shall be the central review agent for all City contracts and requests for proposals prior to solicitation and shall prepare and submit quarterly and annual M/WBE utilization reports to the Mayor and City Council on the progress made on these goals outlined in this ordinance. If there is a vacancy in the Purchasing Agent position, the Commissioner of Management Services shall fulfill the duties of the Purchasing Agent with regard to this Ordinance. The Purchasing Agent shall be authorized to adjust individual contract goals by waivers, or permit the use of state-certified M/WBEs from outside the Region, for the following reasons:

1. Specialty work that cannot reasonably be subcontracted to an M/WBE company, or
2. Lack of qualified responsive and responsible M/WBE companies in the Region that perform the contract work.

Section 14. M/WBE and minority workforce goals specified herein shall be adjusted if required by law or to meet state and federal funding requirements.

Section 15. The City Council shall conduct an annual review of this Ordinance. Based on this review, the City Council may increase the goals or adjust the provisions of this ordinance as necessary to further promote and enhance opportunities for M/WBEs.

Section 16. This Act shall take effect immediately.

[WHEREAS, by letter dated July 6, 2023, Councilwoman Danielle Browne, Esq. requests that the City Council approve legislation establishing Minority and Women Business Enterprise (“MWBE”) goals and minority workforce participation goals to encourage the growth and development of MWBEs in our local economy. This is an important step in creating a more inclusive and diverse local economy, and that it will benefit our community in several ways; and

WHEREAS, MWBE goals can help to promote economic development by increasing the number of businesses in the community and fostering competition. This can lead to greater innovation and more cost-effective solutions. By creating opportunities for underrepresented groups to participate in City contracts and procurement processes, we can help to level the playing field and promote greater equality. Creating a more diverse and inclusive business community can also lead to a broader range of perspectives and ideas. This can help Mount Vernon better serve the needs of our diverse community; and

WHEREAS, minority workforce participation goals can help to address historical and systemic discrimination against minority groups. By encouraging a more diverse and inclusive workforce, we can help to create opportunities for individuals who may have been historically excluded from the job market. This can lead to greater financial

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stability for these individuals and their families, and can help to reduce poverty and inequality in our community; and

WHEREAS, both goals are important for the City of Mount Vernon, and enacting legislation to establish them is a necessary step in creating a more vibrant and equitable local economy. I propose that we start with our percentages lower than the State's goals and then adjust them annually until we are on par with the State's goals; NOW, THEREFORE,

The City of Mount Vernon, in City Council convened, does hereby ordain and enact:

Section 1. Permission is hereby granted to establish the Minority and Women Business Enterprise ("MWBE") goals and minority workforce participation goals to encourage the growth and development of MWBEs in our local economy. This is an important step in creating a more inclusive and diverse local economy, and it will benefit our community in a number of ways.

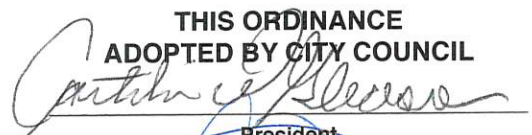
Section 2. This ordinance shall take effect immediately.]

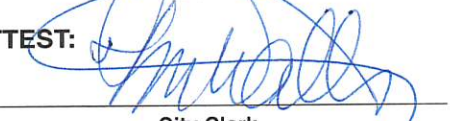
New matter underlined
Deleted matter in brackets []

Vote Taken As Follows: 2/14/2024
Boxhill: Yea Browne: Yea
Poteat: Yea Thompson: Absent
Gleason: Yea Ordinance Adopted


APPROVED AS TO FORM
Assistant Corporation Counsel


Councilperson

**THIS ORDINANCE
ADOPTED BY CITY COUNCIL**

President

ATTEST: 
City Clerk

APPROVED
FEB 15 2024
Date

By Mayor

APPROVED
Dept. _____