

# CITY OF PLAINFIELD

MC 2024-09

**AN ORDINANCE OF THE CITY OF PLAINFIELD, IN THE COUNTY OF UNION,  
CREATING CHAPTER 2, ARTICLE 13, SECTION 20 TITLED “SET-ASIDE  
PROGRAM” TO ESTABLISH THE MINORITY BUSINESS ENTERPRISE, WOMEN  
BUSINESS ENTERPRISE, VETERAN-OWNED BUSINESS AND JOINT-VENTURE  
SET-ASIDE PROGRAM.**

**WHEREAS**, the City of Plainfield, after careful examination and analysis, has determined that it is in the best interest of the residents of the City to establish a Minority Business Enterprise, Women Business Enterprise, Veteran-Owned Business and Joint-Venture Set-Aside Program; and

**WHEREAS**, the City of Plainfield wishes to create Chapter 2, Article 13, Section 20 “Set-Aside Program”, to establish such a program;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Plainfield, in the County of Union, New Jersey, as follows:

## **SECTION 20:**

### § 2:13-20 Set-Aside Program

(a) Definitions: The following definitions shall be applicable to this article:

- (1) **JOINT VENTURE** - An association of one or more minority business enterprise, women business enterprise, or veteran owned business in combination with one or more non-MBE/WBE/VOB proposing to perform as a single for-profit enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the partners and their respective roles in the contract. The City is to issue payment for services to joint ventures on checks to be endorsed by each partner of the enterprise.
- (2) **MINORITY BUSINESS ENTERPRISE OR MBE** - A business which has its principal place of business in this state, is independently owned and operated, is at least 51% owned and controlled by minority group members.
- (3) **MINORITY GROUP MEMBERS** - Persons who are black, Hispanic, Portuguese, Asian-American, American Indian or Alaskan natives.
- (4) **WOMEN'S BUSINESS ENTERPRISE OR WBE** - A business which has its principal place of business in this state, is independently owned and operated, is at least fifty-one percent (51%) owned and controlled by women.
- (5) **SET-ASIDE CONTRACTS** - (1) a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from qualified small business enterprises, qualified veteran business enterprises, qualified minority business enterprises or qualified women's business enterprises, as appropriate; (2) a portion of a contract when that portion has been so designated; or (3) any other purchase or procurement so designated.
- (6) **VETERAN** - shall have the same meaning as set forth in N.J.S.A. 11A:5-1 (b), except that the veteran shall present to the Adjutant General of the Department of Military and Veterans' Affairs sufficient evidence of a record of service and receive a determination of status no later than the date established for the submission of bids; and
- (7) **VETERAN BUSINESS ENTERPRISE OR VBE** - A business which has its principal place of business in this state, is independently owned and operated, is at least fifty-one percent (51%) owned and controlled by a veteran or that wherein at least twenty-five percent (25%) of the required workforce for the contract are veterans, including

new hires if additional workers are required to perform the contract, The business shall also submit forms quarterly to the contracting agency showing proof of veteran status for all the veteran employees.

- (8) SMALL BUSINESS ENTERPRISE OR SBE - A business which has its principal place of business in this state, is independently owned and operated and meets all other qualifications as may be established in accordance with P.L. 1981, c. 283 (C. 52:27H-21.1 et seq.).

(b) Set-Aside Goals

- (1) Unless prohibited by any federal, state or local law, for any contract advertised, or if not advertised after the effective date of this section, the MBE/WBE/VOB set-aside and joint venture program created herein shall have the following goals and shall serve as the initial goals for the City of Plainfield to pursue. There shall be:

- A. Nonprofessional Services:
  - i. WBE: Fifteen percent (15%) total average "spend" on contracts for nonprofessional services (catering, printing, marketing, etc.) awarded to WBE's by way of set-asides.
  - ii. MBE: Fifteen percent (15%) total average "spend" on contracts for nonprofessional services (catering, printing, marketing, etc.) awarded to MBE's with by way of set-asides.
  - iii. VOB: Five percent (5%) total average "spend" on private contracts for nonprofessional services (catering, printing, marketing, etc.) awarded to VOB's by way of set-asides.
  
- B. Professional Services:
  - i. WBE: Fifteen percent (15%) total average "spend" on private contracts for professional services (lawyers, architects, accountants, financial advisers, engineers, and consultants, etc.) awarded to WBE's by way of set-asides.
  - ii. MBE: Fifteen percent (15%) total average "spend" on private contracts for professional services (lawyers, architects, accountants, financial advisers, engineers, and consultants, etc.) awarded to MBE's by way of set-asides.
  - iii. VOB: Five percent (5%) total average "spend" on private contracts for professional services (lawyers, architects, accountants, financial advisers, engineers, and consultants, etc.) awarded to VOB's by way of set-asides.
  
- C. Goods and Services:
  - i. WBE: Fifteen percent (15%) total average "spend" on private contracts for goods and services (office supplies, cleaning products, furniture, etc.), awarded to WBE's by way of set-asides.
  - ii. MBE: Fifteen percent (15%) total average "spend" on private contracts for goods and services (office supplies, cleaning products, furniture, etc.), awarded to MBE's by way of set-asides.
  - iii. VOB: Five percent (5%) total average "spend" on private contracts for goods and services (office supplies, cleaning products, furniture, etc.), awarded to VOB's by way of set-asides.
  
- D. Construction:
  - i. WBE: Fifteen percent (15%) total average "spend" on Construction contracts for goods and services (office supplies, cleaning products, furniture, etc.), awarded to WBE's by way of set-asides.
  - ii. MBE: Fifteen percent (15%) total average "spend" on Construction contracts for goods and services (office supplies, cleaning products, furniture, etc.), awarded to MBE's by way of set-asides.
  - iii. VOB: Five percent (5%) total average "spend" on Construction contracts for goods and services awarded to VOB's by way of set-asides.

E. The total average dollar "spend" on MBE's, WBE's, and/or VOB's, shall not be credited or categorized more than once against a set-aside or joint venture's MBE, WBE, or VOB commitment with respect to all city contracts of such contractor and must be recorded as one or the other for reporting purposes.

F. A registered small business enterprise ("SBE") may participate in a joint-venture program, if it agrees to enter into a joint venture with a MBE, WBE, or VOB, and the MBE, WBE, or VOB must receive fifty percent (50%) of the profits from the contract and perform fifty percent (50%) of the work necessary to fulfill the contract.

(c) Exceptions

The City of Plainfield Purchasing Agent may forego awarding a contract pursuant to this section, under the following conditions:

- (1) An emergency exists, as a specific, documented and definable danger to public health, safety or welfare; or
- (2) Where an eligible MBE, or WBE, or VOB joint venture or set aside is determined by the Purchasing Agent to be unqualified or ineligible to perform the contract, to be proven by way of proof of misrepresentation as to the requirements of the contract or a determination as to same is made by a Court of law; or
- (3) Where the Purchasing Agent determines that two (2) bids from qualified MBE, WBE, VOB or a qualified Joint Venture cannot be obtained pursuant to N.J.S.A. 40A:11-46 (a); or
- (4) Where the Purchasing Agent determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price pursuant to N.J.S.A. 40A:11-46 (b).

(d) Miscellaneous

- (1) For the purposes of joint ventures, the bonding requirement for any contract awarded the joint entity formed, for purposes of complying with this Article, shall be the liability of the entity formed to satisfy same.
- (2) For all contracts advertised after the effective date of this Article, the Purchasing Agent shall make a good faith effort to attain the goals established by the Board pursuant to this Article.
- (3) As it relates to joint ventures and set-asides, a condition of being awarded a contract under this Article, the eligible MBE, WBE, or VOB joint venture or set-aside shall continue to meet the definition and satisfy the criteria of an eligible joint venture or set-aside during the term of the contract for which the bid incentive was awarded. Furthermore, the joint venture contract awardee shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the Purchasing Agent and his/her designee.
- (4) The Purchasing Agent and the Affirmative Action Commission shall be required to adopt policy, rules and regulations for the proper administration and enforcement of this Article. The policy, rules and regulations to be adopted, shall include training opportunities, outreach, compliance and enforcement measures to assess the accurate representation of MBE, WBE and VOB structure, including, but not limited to an enforcement officer to ensure compliance with this Article and to assess the set aside company and/or Joint Venture's Board of Directors composition.

(5) This Article shall not apply to any contract to the extent that the requirements imposed by this Article are inconsistent with procedures or standards required by any law or regulation of the United States or the State of New Jersey to the extent such inconsistency is not permitted under law.

BE IT, FURTHER ENACTED, by the Council of the City of Plainfield, that:

1. The City Council has determined that the Ordinance to establish the Minority Business Enterprise, Women Business Enterprise, Veteran-Owned Business and Joint-Venture Set-Aside Program is appropriate and hereby adopts this as proposed by the Department of Economic Development.

2. The aforementioned recitals are incorporated herein as though set forth at length.


3. The validity or enforceability of any provision of this Ordinance shall not affect the remaining provision of this ordinance, which shall remain in full force and effect.

4. A notice of this action shall be published in the official newspaper authorized to publish legal notices for the City.

5. This Ordinance shall take effect as provided by law.


ADOPTED BY THE MUNICIPAL COUNCIL

March 11, 2024

  
Abubakar Jalloh, R.M.C.  
Municipal Clerk

**CLERK'S CERTIFICATION**

I, Abubakar Jalloh, City Clerk of the City of Plainfield do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Plainfield City Council.

  
Abubakar Jalloh, R.M.C.  
Municipal Clerk

✓ Vote Record - Ordinance MC 2024-09						
			Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopted	Richard Wyatt	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Adopted as Amended	Charles McRae	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Defeated	Steve Hockaday	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Tabled	Terri Briggs Jones	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Repealed	Robert Graham	Seconder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Failed	Julienne Cherry	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Vetoed	Darcella Sessomes	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consensus						