

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 1990 - 7

No. 193 **AN ORDINANCE** AMENDING CHAPTER NO. 21 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE. ENTITLED "REVENUE AND FINANCE", AS AMENDED BY ADDING SECTION 21-52 ENTITLED "MINORITY AND WOMEN BUSINESS DEVELOPMENT.", AS AMENDED.

Approved May 9, 1990

Be it ordained by the City of Providence:

SECTION 1. Chapter 21 of the Code of Ordinances of the City of Providence, entitled "Revenue and Finance", as amended, is hereby further amended by adding thereto Section 21-52, as follows:

a.) Purpose. The purpose of this section is to carry out the city's policy of supporting the fullest possible participation of firms owned and controlled by minorities (MBEs) or women (WBEs) in city funded and directed public construction programs and projects and in municipal purchases of goods and services. This includes assisting MBEs and WBEs throughout the life of contracts in which they participate.

b.) Summary of Factual Findings. Upon full consideration of all relevant facts, the City Council finds that:
Based upon the records supplied by the Purchasing Director/Controller that the City of Providence has purchased, in the two previous fiscal years (87-88, 88-89) and the current fiscal year (89-90) less than 1 percent of its goods and services from firms owned or controlled by minorities or women; that based upon the testimony and evidence provided during the public hearings, individuals, minorities and women as well as businesses owned by minorities and women have been discriminated against by other businesses not owned or controlled by minorities or women in the City of Providence and that State of Rhode Island; that there was no evidence that there is not discrimination against women and minorities in acquiring business within the City of Providence from other sources despite the public hearings and the opportunity to introduce any evidence; It is in the best interest of the City to promote the equitable utilization of MBEs

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and WBEs in city contracting; that the requirements of this chapter are necessary to overcome the present effects of discrimination and are designed to achieve the goal of equitable utilization of MBE and WBEs while at the same time maintaining a high quality of goods and services provided to the City through competitive bidding as required by city charter.

c.) Policy. It is the policy of the City of Providence that minority business enterprises (MBE's) and women business enterprises (WBE's) shall have the maximum opportunity to participate in the performance of procurements and projects as prime contractors and vendors as outlined in Section d, below. In addition, prime contractors shall utilize MBE's and WBE's so as to enable the City, its purchasing department, and all its contracting departments to meet or exceed the goals set forth in this Ordinance. The utilization of MBE's and WBE's as sub-contractors and/or suppliers to the prime contractor, and/or the use of minority and women laborers, will be considered in determining the lowest responsible bidder.

d.) Applicability. This section shall apply to any and all city purchasing, including, but not limited to, the procurement of goods and services and construction projects or contracts funded in whole or in part by city funds, or funds which, in accordance with federal grant or otherwise, the city expends or administers or in which the city is a signatory to the construction contract.

e.) Definitions. "Affirmative Action" means taking specific steps to eliminate discrimination and its effects, to ensure non-discriminatory results and practices in the future, and to involve minority business enterprises and women business enterprises fully in contracts and programs funded by the city.

"Compliance" means the condition existing when a contractor or vendor has met and implemented the requirements of this Ordinance.

"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 the purpose of this Ordinance a lease is a contract.

"Contractor" or "Vendor" means one who participates, through a contract or subcontract, in any procurement or program covered by this Ordinance, and includes lessees and material supplies.

"Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(1) Black (a person having origins in any of the black racial groups of Africa);

(2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);

(3) American Indian (a person having origins in any of the original peoples of North America).

(4) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.S. Section 637(2)).

"Minority Business Enterprise" or "MBE" means a small business concern, as defined pursuant to Section 3 of the Federal Small Business Act (15 USC Section 632) and implementing regulations, which is owned and controlled by one (1) or more minorities.

"Women Business Enterprise" or "WBE" means a small business concern, as defined pursuant to Section 3 of the Federal Small Business Act (15 USC Section 632) and implementing regulations, which is owned or controlled by one (1) or more women.

For the purpose of this section, "owned or controlled" means as business:

(1) Which is at least fifty-one (51%) percent owned by one (1) or more minorities or women or in the case of a publicly owned business, at least fifty-one (51%) percent of the stock of which is owned by one (1) or more minorities or women, and;

(2) Whose management and daily business operations are controlled by one (1) or more such individuals.

"Noncompliance" means the condition existing when a recipient or contractor has failed to implement the requirements of this Ordinance.

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

g.) Minority Business Enterprises. MBE's shall be included in all requests for procurements under this Ordinance and the City shall strive to achieve each of the goals hereinafter established. Upon passage of this Ordinance the City shall utilize the goal of 10% which is presently being used by the State of Rhode Island as found in P.L. 1986, Ch. 493, Section 1, as amended R.I.G.L. Section 37-14.1, et seq. and the "Regulations Governing Participation by Minority Business Enterprises in State Funded and Directed Public Construction Projects, Construction Contracts and Procurement Contracts for Goods and Services" promulgated by the State of Rhode Island Department of Administration, where not inconsistent with this Ordinance. Upon completion of the so-called "predicate study" which will be undertaken, the goals for MBE's will be readjusted based upon the findings contained in said "predicate study" for the first year immediately following submission and acceptance of the said "predicate study" by the City Council, increasing annually in each successive year by the recommended percentage contained in the said "predicate study" until either the final goal of participation of MBE's in all procurements for goods and services has been achieved or that the program created by this Ordinance terminates.

h.) Women Business Enterprises. WBE's shall be included in all requests for procurements under this Ordinance and the City shall strive to achieve each of the goals hereinafter established. Upon passage of this Ordinance the City shall utilize the goal of 10% which is presently being used by the State of Rhode Island as found in P.L. 1986, Ch. 493, Section 1, as amended R.I.G.L. Section 37-14.1, et seq. and the "Regulations Governing Participation by Minority Business Enterprises in State Funded and Directed Public Construction Projects, Construction Contracts and Procurements for Goods and Services" promulgated by the State of Rhode Island Department of Administration, where not inconsistent with this

Ordinance. Upon completion of the so-called "predicate study" which will be undertaken, the goals of WBE's will be readjusted based upon the findings contained in said "predicate study" for the first year immediately following submission and acceptance of the said "predicate study" by the City Council, increasing annually in each successive year by the recommended percentage contained in the said "predicate study" until either the final goal of participation of WBE's in all procurements for goods and services has been achieved or that the program created by this Ordinance terminates.

i.) Review. This Ordinance shall be reviewed by the City Council during the calendar years 1995 and again during the calendar year 2000 to ascertain the need for adjustments and/or termination of the program if its goals are being consistently met. The provisions of this Ordinance may only be waived upon certification to the Board of Contract and Supply by the Purchasing Agent that no MBE's or WBE's provide the required goods and/or services or that they are so expensive as to be prohibitive to utilizing an MBE or WBE.

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

k.) Rules and Regulations. It shall be the duty of the Board of Contract and Supply to adopt reasonable rules, regulations and procedures to ensure compliance with this Ordinance.

l.) Advisory Commission. Within ninety (90) days of enactment, the Mayor and City Council will convene a special nine (9) person advisory group whose name shall be "The Providence Commission on Minority and Women Business Development". The mayor shall appoint five (5) persons to the advisory group and four (4) persons shall be elected by the City Council.

Said Commission shall be concerned with the programs development (i.e. procedures, standards, general requirements, special contract language, supportive services etc.) and monthly monitoring, the identification of MBE/WBE publications for the dissemination of bid notices and program announcements, coordination with other MBE/WBE small business advisory groups, the submission of annual reports to the Mayor and City Council on the progress of the program, and the examination of national, regional and local demographic/economic trends and their effects on the local MBE/WBE Community.

The City Council shall provide by Ordinance sufficient funds to carry out these and other relevant responsibilities, and shall provide for a Program Administrator within the classification Ordinance to administer this program.

SECTION 2. This Ordinance shall take effect upon its passage. If any clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of any other clause, provision or portion of this Ordinance.

IN CITY COUNCIL
APR 19 1990
FIRST READING
READ AND PASSED

Rose M. Mendonca CLERK

IN CITY COUNCIL
MAY 3 1990
FINAL READING
READ AND PASSED

Michael W. Eason
PRESIDENT
Rose M. Mendonca
CLERK

APPROVED
MAY 9 1990
[Signature]
MAYOR

**THE COMMITTEE ON
FINANCE**

Recommends

Be Continued
Joe Mendonca
Clerk

April 2, 1990

**THE COMMITTEE ON
FINANCE**

**Approves Passage of
The Within Ordinance**

Joe M. Mendonca
Chairman
Clerk

April 16, 1990

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