

125-O-21

AN ORDINANCE

Amending Section 1-17-1 of the City Code Concerning Minority and Women Owned Business Requirements

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: City Code Section 1-17-1 “Purchases of Goods or Services” of the Evanston City Code of 2012, as amended, is hereby amended to add as follows:

1-17-1. – PURCHASES OF GOODS OR SERVICES.

(D) Minority, women, and Evanston business enterprise (M/W/EBE) goals.

1. *Definitions.* For the purposes of this Subsection (D), Minority, Women and Evanston Business Enterprise (M/W/EBE) Goals, the following terms shall be defined as follows:

<p><i>EVANSTON-OWNED BUSINESS ENTERPRISE or EBE.</i></p>	<p>An entity which is located in or has one (1) or more offices located in the City for a minimum of one (1) year and which performs a "commercially useful function." The business must be certified by the City in accordance with the provisions of Section 1-17-1(B).</p>
<p><i>MINORITY-OWNED BUSINESS ENTERPRISE or MBE.</i></p>	<p>A business which is at least fifty-one percent (51%) owned by one (1) or more members of one (1) or more minority groups, or, in the case of a publicly-held corporation, at least fifty-one percent (51%) of the stock of which is owned by one (1) or more members of one (1) or</p>

	<p>more minority groups, whose management and daily operations are controlled by one (1) or more members of one (1) or more minority groups. The City Manager or his or her designee shall determine which MBE certifications shall be accepted by the City.</p>
<p><i>M/W/EBE GOALS.</i></p>	<p>The City of Evanston establishes the goal of awarding not less than twenty-five percent (25%) of its contract awards to MBE, WBE and EBE businesses. The City of Evanston establishes the goal of awarding not less than three percent (3%) utilization of EBEs in its contract awards. The provisions of this Section shall be implemented by the City Manager or his or her designee. The provisions of this Section do not guarantee contract participation.</p>
<p><i>WOMEN-OWNED BUSINESS ENTERPRISE or WBE.</i></p>	<p>A business which is at least fifty-one percent (51%) owned by one (1) or more women, or, in the case of a publicly-held corporation, fifty-one percent (51%) of the stock of which is owned by one (1) or more women, whose management and daily business operations are controlled by one (1) or more women. The City Manager or his or her designee shall determine which WBE certifications shall be accepted by the City.</p>

2. A minority-owned business enterprise ("MBE") or women-owned business enterprise ("WBE") (collectively, "M/W/BE") must perform a "commercially useful function."

a. A M/W/BE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the M/W/BE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material

itself. To determine whether an M/W/BE is performing a commercially useful function, the City will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the M/W/BE credit claimed for its performance of the work and other relevant factors.

b. A M/W/BE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/W/BE participation. In determining whether a M/W/BE is such an extra participant, the City will examine similar transactions, particularly those in which M/WBE's do not participate.

c. If a M/W/BE does not perform or exercise responsibility for at least thirty (30) percent of the total cost of its contract with its own work force, or the M/W/BE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, then it is not performing a commercially useful function.

d. When an M/W/BE is presumed not to be performing a commercially useful function as provided in Subsection (D)(2)(c) of this Section, the M/W/BE may present evidence to rebut this presumption. The City may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

3. Businesses that maintain a distribution warehouse or manufacturing operation will receive M/W/BE credit of sixty (60) percent. Those that do not maintain a distribution warehouse or manufacturing operation will be considered a broker and receive a five (5) percent credit.

4. Eligibility as a M/W/BE will be periodically reviewed and may be revoked at any time if the entity no longer meets the above requirements.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.