

BILL NO: 11 OF 2021
INTRODUCED: JULY 13, 2021
BY: COUNCILMAN GILBERT COLES
ENACTED: AUGUST 10, 2021
ORDINANCE NO: 1241

CITY OF MONESSEN

EQUITABLE CONTRACTING ORDINANCE

ORDINANCE 1241

AN ORDINANCE OF THE CITY OF MONESSEN, WESTMORELAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, PROMOTING EQUITY, DIVERSITY, AND INCLUSIVITY IN THE CITY OF MONESSEN, AND ESTABLISHING EQUITABLE CONTRACTING PROCEDURES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the city of Monessen was built by the hard-work and determination of immigrants and people of different backgrounds and ethnicities, and, in part, because of this, Monessen's growth succeeded, and;

WHEREAS, the Council of the City of Monessen seeks to confirm that the City of Monessen is a place of welcome and hospitality for all who seek residence in or visit our community regardless of their country of origin, race, religion, native language, or sexual orientation; and;

WHEREAS, the City of Monessen wants to reassure its residents and visitors that it is a place that welcomes people of all backgrounds and cultures, celebrating diversity and inclusion, and;

WHEREAS, the City of Monessen will not tolerate any prejudice, racism, sexism, bigotry, hatred, bullying, or violence toward any groups or individuals within our community, and;

WHEREAS, the City of Monessen rejects any attempt to intimidate, threaten, or otherwise marginalize members of our community, and;

WHEREAS, the City of Monessen values residents regardless of where they are from, who they love, how they worship, how they look, their abilities, or how they vote, and;

WHEREAS, the City of Monessen encourages all residents and visitors to celebrate each other's differences and learn from one another, and;

WHEREAS, in furtherance of that goal, and in the best interests of the health, safety, and welfare of the residents of the City of Monessen, the Council of the City of Monessen adopts this Resolution setting forth a policy for promoting equality, diversity, and inclusivity, and for establishing equitable contracting procedures for Women and Minority-owned businesses.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of Monessen and it is hereby ordained and enacted as follows:

Section 1. Short Title.

This Ordinance may be cited as the "*Equitable Contracting Ordinance*".

Section 2. Purpose and Intent.

1. The City of Monessen is committed to promoting and fostering a diverse, supportive, and inclusive community. Furthermore, the City is interested in providing equitable opportunities for all peoples.
2. The City of Monessen and its Mayor and Council, hereby affirm its commitment to promoting and fostering a diverse, supporting, and inclusive community, by proclaiming the following:
 - a. The City of Monessen acknowledges that apart from any native, indigenous people in our community, all of the residents of the City of Monessen are immigrants or descendants of immigrants.
 - b. It shall be the policy of our City to renounce all bigoted, prejudiced, and hateful speech about any individual's country of origin, race, religion, native language, or sexual orientation; and further, to condemn the actions of those who seek to divide us with misogynistic, xenophobic, racist, or nativist rhetoric.
 - c. The City of Monessen further affirms that our City is committed to equality, diversity, and inclusivity, and is a place of welcome and hospitality for all who seek residence in, aim to establish business in, or

visit our community regardless of their country of origin, race, religion, native language, or sexual orientation.

- d. The City of Monessen pledges a commitment to and calls on all City officials and personnel to monitor their speech and attitude, because we, as public officials, are duty-bound to uphold our public trust and protect against derogatory and hateful speech.
- e. The City of Monessen encourages all residents to do everything in their power and spheres of influence to ensure that all are welcome, and that the City of Monessen remains a community that celebrates and is committed to equality, diversity, and inclusivity.

Section 3. Equitable Contracting Procedures Established.

1. The City of Monessen shall, in an effort to create more equitable opportunities, especially for our minority communities, take several steps to ensure fair and equitable contracting practices with the City of Monessen, in its governmental capacity.
2. Currently, according to federal regulations laid out by the US Department Housing and Urban Development, Section 3 regulations: All contracts with respect to recipients of Housing and/or Community Development funding, all contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3, in terms of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE).
 - a. The City of Monessen shall lower the threshold for local contracts acquired, to \$20,000 and above. These local contracts are those that align with US Department Housing and Urban Development, Section 3 regulations, such as service contracts, abatement, demolition, Community Development Block Grant (CDBG) work, or any other relevant work as it pertains to contractors or subcontractors for housing construction, rehabilitation, or other public construction.
3. The City of Monessen shall require that the City Engineer provide a written memorandum listing in full detail the extent taken to attract MBE's and WBE's for all projects for the City of Monessen that undergo the bidding process. The memorandum must include advertising details, methods used for attracting MBE's and WBE's, reasons why they were not attracted (if applicable) and why they were not considered for the bid (if applicable).
4. All city RFPs and other project proposals that related to the regulations of the US Housing and Urban Development Section 3 regulations, as well as those set forth in this resolution shall include a sample MBE/WBE Commitment Letter, which contains a signature line for both primary contractor and the subcontractor to sign. Bidders/Proposers shall be reminded to submit copies of the commitment letters, proof of out-reach, and their current MBE/WBE certification and/or current MBE/WBE certification for their MBE/WBE partners/subcontractors.

5. The following categories of contracts, which must be confirmed in writing to the City of Monessen and the City Engineer, may be waived from participation in the full equitable contracting process:
 - a. Emergency services: services necessary to protect the public health and safety, necessary to relieve the immediate necessity of residents due to calamity, or required because of unforeseen damage to public property.
 - b. Sole source services: services documented to fall within one of four categories: (i) available from only one source (in which case accompanying waiver request must clearly define the scope in which it is unique; (ii) for which only one prospective contractor is willing to enter into a contract with the City; (iii) where an item required for the service has design and/or performance features that are essential to the city or a particular department, including due to compatibility with services or goods currently in use, and no other source satisfies the City's requirements; or (iv) licensed or patented services.
 - c. Legally required contracts: Contracts requiring compliance with terms and conditions of a court order, government grant, or governmental order, or for expert witnesses, consultants associated with anticipated or pending litigation, or other agreements required for the administration of legal services.
 - d. Grants: When procurement involves the expenditure of outside governmental (e.g. federal or state) funds, purchasing shall be conducted with any applicable federal or state laws or regulations.
 - e. Intergovernmental Agreements: Agreements with other governmental or quasi-governmental bodies.
6. A waiver shall not be granted unless the contractor has provided documented Good Faith Efforts ("GFE"). GFE are the actions all contractors must demonstrate via appropriate documentation (as determined by the City of Monessen) to certify they have performed their due diligence to solicit MBE/WBE participation in support of the City's MBE/WBE goals.
7. In the event of a developer/contractor's failure to meet the requirements of these provisions, the City shall take the following steps:
 - a. Issue a written Alert Notice to a developer/contractor and to appropriate unions, whenever in the City's opinion, the developer/contractor is not in compliance with the provisions of this resolution, or the rules and regulations issued pursuant thereto.
 - b. If the Alert Notice is not satisfied within three (3) working days by a correction of the violation(s), the City shall follow up the Alert Notice by issuing a written Violation Notice. Upon the issuance of such notice, the developer/contractor will have seven (7) working days to correct the violation.
 - c. The City may rescind either or both notices described above if the developer/contractor meets its obligations under these provisions, or if it presents a satisfactory explanation, in writing, as to why such compliance is impractical or impossible.

8. In order to advertise and notify the public that MBE/WBE contractors/subcontractors are being sought for specific projects, the developer/contractor and the City shall place notifications in area publications, including minority publications, and shall also notify nonprofit and community organizations, regarding potential employment opportunities, when applicable.
9. The procedures established in this section shall apply to any and all applicable local contracts awarded by the City of Monessen

Section 4. Effectiveness.

This Ordinance shall come into effect ten (10) days upon enactment.

ENACTED this 10th day of August 2021, by the Council of the City of Monessen, in lawful session duly assembled.

ATTEST:


Cheryl Gordon
City Clerk


Matthew T. Shorraw
Mayor and President of Council

[SEAL]

