City of Asheville Business Inclusion Policy

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Key Takeaways

- Provide a holistic framework for supporting MWSBE
- Supports economic inclusion which aligns with reparations
- Align with 30-60-90 benchmarks for reworking City priorities
- Supports City Council goals:
  - An Equitable and Diverse Community
  - A thriving Local Economy
  - A connected and engaged community
- Demonstrates the City's commitment to equitable economic growth

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Presentation Overview

- The City of Asheville provides myriad services to the residents who live and work in the region. To provide those services, the City typically spends more than $35 million each year in contract dollars to procure various goods and services in construction, professional services, goods and general services.
- To address discrimination in the participation of minority- and woman-owned businesses and foster economic inclusion, the proposed “Asheville Business Inclusion Policy” seeks to implement race- and gender-conscious policy elements into City contracting and procurement.
- The Asheville Business Inclusion Office seeks to promote equitable economic growth and development in the City of Asheville

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Background - Asheville Business Inclusion Policy

- In 2018, the City of Asheville performed a Disparity Study which concluded that the participation of minority- and women-owned businesses in City contracts was lower than expected based on business availability.
- The results of the Disparity Study provide the City with sufficient evidence to adopt a race- and gender-conscious contracting policy to address the identified disparities in contrast to the expired race- and gender-neutral Minority Business Plan that was previously adopted after a 1993 Disparity Study.
- The proposed “Asheville Business Inclusion Policy” seeks to remediate the ongoing effects of marketplace discrimination demonstrated by the Disparity Study, by implementing race- and gender-conscious policy elements.

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Legal Framework

- Race- and gender-conscious programs and policies, must meet the legal standard known as *strict scrutiny.* For which the Disparity Study provides the **compelling government interest** for the City to create a **narrowly tailored** policy to address documented discrimination within City contracting.
- The City may establish **Annual Aspirational goals** and **contract-by-contract subcontracting goals** for minority-owned and women-owned businesses that have a documented disparity within contracting industries, based on the disparity study results.
- The goals will be based on the availability of MWBE firms within the relevant market area, “The Asheville Regional Area,” as defined by the Disparity Study.

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Asheville Business Inclusion Policy

The Asheville Business Inclusion Office seeks to enhance competition in City contracting and promote economic growth and development in the City of Asheville by:

- Increasing the City's awareness of available minority, women, and small business vendors
- Increasing Minority, Women, and Small Business Enterprises (MWSBEs) utilization in City contracting
- Promoting existing and start-up development of small business growth and profitability in the Asheville Regional Area
- Monitoring, evaluating and reporting on Minority and Women Business Enterprises

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Asheville Business Inclusion Policy

The proposed “Asheville Business Inclusion Policy” seeks to remediate the ongoing effects of marketplace discrimination demonstrated by the Disparity Study, by implementing race- and gender-conscious policy elements, to include:

- Establishing annual aspirational and contract-by-contract subcontracting goals for MWSBEs participation in City contracts;
- Establishing standards for good faith efforts;
- Directing the City to maintain a database of available & certified MWSBEs;
- Defining the parameters for MWSBE Certification;
- Defining the Roles and Responsibilities of key City personnel;
- Providing guidance on other measures the City may take to promote Business Inclusion;
- Directs City Manager to ensure the integration of the Asheville Business Inclusion Policy components into all City Departments’ practices and processes.
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Goal Setting

Annual Aspirational Goals: The policy directs the Goal Setting Committee to establish an aspirational goal every year for the overall participation in all City contracts by MBEs, WBEs, and SBEs, collectively referred to as “MWSBE Goals.”

Contract by Contract Subcontracting Goals: The policy directs the Goal Setting Committee to establish contract by contract subcontracting goals for individual contracts and directs Prime Contractors (bidders) to provide opportunity to MSWBEs.

All MWSBE goals shall only be set for those categories of firms that have a documented disparity as demonstrated by the disparity study.

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Good Faith Efforts

- The policy set standards for adequate good faith efforts used by bidders to provide opportunity to MWSBE firms.
- Adequate good faith efforts mean that all necessary and reasonable steps were taken to achieve the goals
- Not providing adequate Good Faith Efforts documentation is grounds to deem a bid unresponsive
- For each unmet subcontracting goal the contractor must submit Good Faith Efforts, for example:
  - Contacting available MWBEs
  - Breaking down work and negotiating with interested MWBEs and SBEs
  - Participating in pre-mid meetings

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COA Certifications

- **Minority Women Business Enterprise (MWBE) Certification**
  - At least 51% of the applicant business must be owned and managed by an eligible owner
  - Significant Business Presence in the Asheville Regional Area
  - Licensed and for-profit
  - Registered with the city as a vendor

- **Small Business Enterprise (SBE) Certification**
  - Significant Business Presence in the Asheville Regional Area
  - Registered with the city as a vendor
  - Licensed and for-profit
  - The firm's annual sales receipts cannot exceed $250,000

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Additional Policy Guidance

The policy sets forth other proactive, elective measures to promote SBE and MWBE Opportunities to include:

- When Permissible, remove bonding requirements for contracts less than $300,000 in value;
- Where permissible, structure alternative bids opportunities by dividing formal (large) projects/purchases into smaller contracts;
- Provide networking opportunities for prime contractors and MWSBE subcontractors;
- Support bank lending to minority-owned and women-owned businesses; and
- Allocate funding to create professional coworking spaces and business incubators to provide support for MWSBE growth.

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Key Takeaways

In summary, this policy

- Provide a holistic framework for supporting MWSBE
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Policy Implementation

Policy Implementation: October - December 2020

- ★ Secure City funding support for ABI Office staffing, operations, training and outreach
- ★ Appoint & activate Goal-Setting Committee
- ★ Identify upcoming City projects and bidding opportunities
- ★ Set Goals for MWSBE participation
- ★ Develop internal procedures for employees to follow
- ★ Host training for City staff
- ★ Develop database for City MWSBE Firms
- ★ Certify MWSBE Firms to ensure that we have a large enough pool to affect outcomes positively
- ★ Continue to provide workshops and training to MWSBEs via ABI Office

January 1, 2021: Policy goes into effect

- ★ The race- and gender-conscious elements of the “Asheville Business Inclusion Policy,” will expire on **November 1, 2023**, unless a new disparity study has been completed.