



**COMMON COUNCIL MEETING
HUMAN RESOURCES AND HUMAN RIGHTS COMMITTEE
Jahmel Robinson, Chair**

DATE: Wednesday, October 22, 2025

TIME: 5:30PM

LOCATION: Council Chambers-2nd Floor, City Hall

LIVESTREAM: YouTube— <https://www.youtube.com/@albanycommoncouncil>
Facebook— <https://www.facebook.com/albany.commoncouncil>

TOPIC(S) OF DISCUSSION:

- **Ordinance 26.61.23 (Kimbrough)**
AN ORDINANCE AMENDING CHAPTER 48 (EQUAL OPPORTUNITY PROTECTIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXPANDING THE SCOPE OF MINORITY AND WOMEN-OWNED AND CONTROLLED BUSINESSES
- **Local Law B of 2025 (Conti)**
A LOCAL LAW AMENDING THE CHARTER OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE IX ENTITLED: “CIVIC INCLUSION AND RIGHTS PROTECTION”

PUBLIC COMMENT PERIOD: YES

Council Member Kimbrough and Romero introduced the following:

ORDINANCE 26.61.23

AN ORDINANCE AMENDING CHAPTER 48 (EQUAL OPPORTUNITY PROTECTIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXPANDING THE SCOPE OF MINORITY AND WOMEN-OWNED AND CONTROLLED BUSINESSES

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Article II (Minority- and Women-Owned Business Enterprise Program and Minority- and Women-Owned Labor Utilization Plan) of Chapter 48 (Equal Opportunity Protections) of Part I (Administrative Legislation) is hereby repealed and a new Article II ((Minority- and Women-Owned Business Enterprise Program and Minority- and Women-Owned Labor Utilization Plan) shall be enacted to read as follows:

§ 48-12 Definitions.

For purposes of this chapter, the following terms shall have the meaning defined in this section:

BID

An offer by a business to enter into a procurement contract.

BIDDER

A business that submits a bid.

CERTIFICATION

The process by which the city determines that a business entity should be recognized as a minority-owned and/or woman-owned business enterprise for the purposes of this chapter.

CITY

The city of Albany, New York.

CONTRACTOR

A business that is awarded a procurement contract.

HUMAN SERVICES

Services provided to third parties, including social services such as day care, foster care, home care, homeless assistance, housing and shelter assistance, preventive services, youth services, and senior centers; health or medical services including those provided by health maintenance organizations; legal services; employment assistance services, vocational and educational programs; and recreation programs.

MINORITY-OWNED BUSINESS ENTERPRISE (MBE)

A business that is periodically certified by the Chief Compliance Officer as satisfying the following criteria:

- A. at least fifty-one (51) percent of the business is owned and controlled by minority group members who are United States citizens or permanent resident aliens, or in the case of a publicly owned business, at least fifty-one (51) percent of the stock of the business is owned by minority group members who are United States citizens or permanent residents; and
- B. the management and daily operations of the business are controlled by one or more of the minority group members who own it.

MINORITY GROUP MEMBERS

- A. Black persons having origins in any of the Black African racial groups;
- B. Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
- C. Native American or Alaskan native persons having origins in any of the original peoples of North America;
- D. Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

POSITIVE EFFORTS

The completion of the following actions:

- A. Identify MBEs and WBEs that may be able to perform specific subcontracts, by:
 - 1. Reviewing the City, County and State directories of MBEs and WBEs; and
 - 2. Placing advertisements in general circulation, trade association, and minority/female focus media (and, where the procurement contract relates to construction, located within reasonable proximity to the construction project), that solicit bids for identified subcontracting opportunities; and
 - 3. Contacting minority and women's organizations, contractors' groups and local, state and federal minority and women business assistance offices and other organizations that provide assistance to, and promote opportunities for, MBEs and WBEs; and
 - 4. Any other method(s) that in fact results in the identification of MBEs and WBEs qualified to bid on subcontracting opportunities.
- B. Where technically feasible, and consistent with the efficient performance of the procurement contract, divide the procurement contract into segments that create subcontracting opportunities for qualified and available MBEs and WBEs.

- C. Notify a reasonable number of specific MBEs and WBEs in writing, that their interest in specified subcontracts is being solicited in sufficient time to allow them to participate effectively; such notice must include complete and accurate information about the plans, specifications, change orders and other requirements of a given subcontract, and must state the date bids and a response to the notice are due.
- D. Follow-up on initial solicitations of interest by contacting MBEs and WBEs to determine with certainty whether they are interested and whether they need additional information to make a bid.
- E. Negotiate with, consider, and award subcontracts to interested MBEs and WBEs in the same manner and subject to the same procedures, standards and requirements that the contractor follows with companies that are not MBEs and WBEs. More demanding contract terms with MBEs and WBEs; or, in evaluating the merits of a bid by an MBE or a WBE, a commercially insignificant difference in price shall not be a basis for rejecting the bid).
- F. After awarding a subcontract to an MBE or a WBE, impose requirements and performance standards no more stringent than those imposed on companies that are not MBEs or WBEs.

PROCUREMENT CONTRACT

Any contract with regard to the following industries:

- A. Construction, including rehabilitation, alteration, conversion, extension, repair or demolition, and all related services;
- B. Professional services;
- C. Standard or Human services.

PROFESSIONAL SERVICES

Services that require specialized skills and the exercise of judgment, including but not limited to accountants, lawyers, doctors, computer programmers and consultants, architectural and engineering services, and construction management services.

STANDARD SERVICES

Services other than professional services and human services.

SUBCONTRACT

A contract between a contractor and any other business unrelated to the contractor, through which the other business (i.e., the subcontractor) provides a distinct element of the work, services, goods, supplies, equipment or materials contemplated by, and required for the completion of, the procurement contract.

WOMEN-OWNED BUSINESS ENTERPRISE (WBE)

A business that is periodically certified by the Chief Compliance Officer as satisfying the following criteria:

- A. At least fifty-one (51) percent of the business is owned and controlled by women who are United States citizens or permanent residents, or in the case of a publicly owned business, at least fifty-one (51) per, cent of the stock of the business is owned by women who are United States citizens or permanent resident aliens; and
- B. The management and daily operations of the business are controlled by one or more of the women who own it; and

§ 48-13 Administration.

A. City Compliance.

The City officer in charge of administering this program (“Chief Compliance Officer”), in addition to the specific powers and duties set forth elsewhere, shall:

- 1. Develop techniques, materials and procedures consistent with this chapter, to facilitate the participation of WBEs and MBEs in procurement contracting opportunities and to facilitate compliance with this chapter by contractors;
- 2. Subject to the prior approval of the Mayor, adopt administrative rules and procedures to implement its responsibilities under this chapter (e.g., to certify companies as MBEs and WBEs);
- 3. Maintain and periodically update a directory of businesses that have been certified as MBEs and WBEs under this chapter;
- 4. Develop and implement internal auditing and reporting systems to determine the effectiveness of this chapter in preventing discrimination against MBEs and WBEs.

B. Rapid Certification.

In adopting administrative rules and procedures to implement this chapter, the City office of minority affairs shall grant certification under this chapter for any business that has bona fide offices and operations in the City of Albany (or Albany County or one of the neighboring counties of Saratoga, Rensselaer or Schenectady), that holds a current and valid M/WBE certification, with a minimum of 12 months remaining on the current certification, with at least one of the following:

- 1. New York State M/WBE Certification Program
- 2. Small Business Administration 8(a) Business Development Program
- 3. US Small Business Administration WOSB Program

4. New York State Disadvantaged Business Enterprise Program
5. Buffalo Erie County/Joint Commission M/WBE Program
6. New York Port Authority M/WBE Program
7. City of Rochester M/WBE Program
8. Monroe County M/WBE Program
9. City of Syracuse M/WBE Program
10. City of New York M/WBE Program
11. New York Power Authority M/WBE Program
12. MTA M/WBE Program
13. National Minority Supplier Diversity Council
14. Women's Business Enterprise National Council
15. US Women's Chamber of Commerce
16. National Women's Business Owners Corporation

§48-14 Establishment of MBE and WBE participation goals.

A. Overall goal.

Goals for MBE and WBE participation in procurement contracts, for the three-year (3-year) period commencing from and after the effective date of this chapter, are as follows: MBE goal, thirty (30) percent of the total amount of all procurement contracts and thirty (30) percent minority group member labor participation goal; WBE goal, thirty (30) percent of the total amount of all procurement contracts and thirty (30) percent women participation goal.

B. Contract goals.

The Chief Compliance Officer, with the prior approval of the purchasing division and the department(s) for which the contract is being awarded, shall set participation goals for each procurement contract. Two (2) goals shall be set, one for MBE participation and one for WBE participation. Each goal shall be expressed as a percentage of the total dollar amount of the contract and will represent an estimate of the likely level of MBE and WBE participation in the contract if MBEs and WBEs are given an equal opportunity to compete for and perform subcontracts likely to be awarded under the contract. The goals shall be

recorded in the documents soliciting bids and shall be based upon the following considerations:

1. The City's overall goals set forth in section §48-14(a);
2. The possible subcontracting opportunities, in the given procurement contract, by industry (e.g., construction, professional services), by trade area (e.g., legal, accounting, electrical, HVAC, plumbing) and by business category (e.g., supplier of insulated windows, CPA, attorney); the dollar amount of each such subcontracting opportunity; the percentages of the total number of businesses located in the City—in each such industry, trade or business category—that are MBEs and WBEs;
3. The number of qualified MBEs and WBEs available to compete for each identified subcontracting opportunity;
4. The extent to which MBEs and WBEs have in the past been awarded subcontracts under other comparable procurement contracts; and
5. The extent to which a contractor will likely receive credit towards a goal under the standards and limitations set forth in section§48-14(d).

C. Modification of contract goal.

A contract goal may be modified by the Chief Compliance Officer, with the prior approval of the purchasing division and after consultation with the department(s) for which the contract is being awarded, based on:

1. Changes in the plans, specifications or other relevant terms of the contract;
2. The receipt of relevant information not available or considered when the contract goal was first established;
3. The receipt of an objection to the goal urged by any potential contractor or subcontractor on the grounds that:
 - a. The goal will result in inadequate competition for a subcontract or for a group of subcontractors; or (b) the goal for the specific procurement contract and the goal for similar prior contracts has necessarily excluded a particular company from consideration for subcontracting opportunities. Such an objection shall be made in writing to the Chief Compliance Officer, prior to the deadline for the submission of bids on the contract, and shall fully explain the basis for, and establish the soundness of, the objection.

D. Standards controlling whether MBE and WBE goals have been achieved.

The dollar amount of all subcontracts awarded to certified MBEs and WBEs will be credited toward the satisfaction of the MBE and the WBE goals, subject to the following limitations:

1. A contractor that awards a subcontract to a business certified as both an MBE and a WBE must elect to apply the amount of that subcontract to either the MBE or the WBE goal.
2. A contractor that awards a subcontract to a joint venture may apply toward the MBE or WBE goal, the percentage of the- total dollar amount of the subcontract equal to the percentage of the joint venture in fact owned and controlled by the MBE or WBE joint venturer(s).
3. A contractor will be given credit for a subcontract only if it serves a commercially useful function. To determine whether a subcontract satisfies this requirement, the Chief Compliance Officer will consider the nature and amount of the subcontract, customary industry subcontracting practices for the given procurement contract, and such other factors it finds relevant.
4. A contractor will receive credit for the full amount of a subcontract even if the MBE or the WBE subcontractor enters into subcontracts with businesses that are not MBEs or WBEs. However, if an MBE or WBE subcontractor, subcontracts a significantly greater portion of the work of the subcontract than would be expected under customary industry practices, the contractor will not receive credit for the subcontract.
5. A contractor will receive credit for a subcontract that entails the supplying of materials or products only if the subcontractor is regularly engaged in the business of supplying materials or products and has a warehouse or other storage facility where the materials or products provided through the subcontract are regularly stored.
6. In addition to credit received through subcontracts, a contractor that is certified as an MBE or WBE shall receive credit toward the MBE or WBE goal equal to the percentage of the total contract amount that it undertakes and completes, i.e., that it does not perform through subcontracts.

§48-15 Obligations of successful bidders and contractors.

- A. Every successful bidder shall, as a condition precedent to the award of the procurement contract, submit to the Chief Compliance Officer, within ten (10) business days of being notified that it is the successful bidder, an MBE and WBE utilization plan, executed before a notary by the appropriate officer or authorized agent of the bidder, which shall:
 1. State the name, title and telephone number of the individual(s) responsible for: Assuring compliance with this chapter; supervising efforts to identify

subcontractors; negotiating and awarding subcontracts; and monitoring performance of subcontracts;

2. Provide a brief description of each item of work, services, goods, supplies, equipment or material that it expects to complete or provide through subcontracts and the dollar amount of each such subcontract;
3. State the month the work under each subcontract will likely commence or the month the services, goods, supplies, equipment or materials under each subcontract will likely be provided;
4. Identify each subcontract listed in response to paragraphs (2) and (3), immediately above, that it expects to award to an MBE or WBE; the name, address and telephone number of each such MBE or WBE; the name, race (or ethnicity) and sex of the chief executive officer (or equivalent) of each such MBE or WBE;
5. Contain a promise by the bidder that it will satisfy the MBE and WBE contract goals or will make positive efforts to do so.

B. Every contractor shall be required to agree, by contract, to the following:

1. That it will not discriminate against MBEs or WBEs in the identification of potential subcontractors and in the negotiation, awarding and performance of subcontracts.
2. That it will document that it in fact satisfied the MBE and WBE goals set for the contract, or document that it was unable to do so despite positive efforts. More specifically, it will file monthly reports with the Chief Compliance Officer, on the fifteenth (15th) day of each month following the signing of the procurement contract, providing the following documents and information:
 - a. A copy of each written subcontract for work or services—including a copy of each agreement or order for goods, supplies, equipment or materials—executed during the previous month;
 - b. The name of each company that was awarded a subcontract; whether the company is an MBE or a WBE; the date the subcontract was awarded; the dollar amount of the subcontract; the industry, trade or specialty involved; the date work or services under the subcontract will (or has) commence(d) and will be (or has been) completed or the date the goods, supplies, equipment or materials will be or have been provided;
 - c. If the successful company is an MBE or WBE not listed in the utilization plan, the race or ethnicity and sex of the individual(s) who own and manage the company (e.g., Black, Hispanic American, Asian-American, American Indian, Woman);

- d. In the event a contractor has not awarded a subcontract to an MBE or WBE that was specifically identified in the contractor's utilization plan as likely to receive the subcontract, the reasons the subcontract was not awarded as originally contemplated by the utilization plan;
 - e. In the event a company was found by the contractor to be unqualified or unable to perform a subcontract after the subcontract had been awarded to that company, the name of each such company; the reason the company was found unqualified to perform the subcontract; whether the company is an MBE or a WBE and, if either an MBE or a WBE, the race or ethnicity and sex of the individuals who own and manage the company (e.g., Black, Hispanic American, Asian-American, American Indian, Woman);
 - f. The percentage of each subcontract completed; the amount paid to each subcontractor and the balance due each subcontractor under each subcontract;
 - g. All revisions to the utilization plan, in the form and with all information required for the initial utilization plan;
 - h. If the utilization plan, as originally tendered or as revised, reveals that the contract goals will not be satisfied, then a detailed statement and documentary proof of the positive efforts that the contractor has made and will make to satisfy the goals. Included in the report shall be a listing of MBEs and/or WBEs, if any, that were considered for each subcontracting opportunity, the race or ethnicity and sex of the individuals who own and manage each of those companies (e.g., Black, Hispanic American, Asian-American, American Indian, Woman), the name and title of the person at each of those companies with whom the contractor dealt or negotiated, and the reason(s) such companies were denied the subcontracting opportunity.
3. That it will retain, and make available to the city upon request, for a period of three (3) years subsequent to the completion of the contract, all records relied upon for the compilation of each monthly report.

§48-16. Enforcement provisions.

- A. The Chief Compliance Officer, upon concluding that a contractor has either (i) failed to comply with any requirement of this chapter or (ii) willfully made a false statement or provided incorrect information, shall in each case report their findings, with specificity and in writing, to the Mayor and the office of the corporation counsel. The office of the corporation counsel shall then give notice of the specific deficiencies to the contractor who shall then be given ten (10) days to show cause at a hearing as to why a determination of noncompliance by the office of the corporation counsel should not be entered.

B. A determination of noncompliance by the office of the corporation counsel shall constitute a finding by the city that the contractor breached the contract. The office of the corporation counsel may impose appropriate remedies for noncompliance including but not limited to:

1. Directing that part or all of the payments to the contractor be withheld until noncompliance is cured;
2. Directing that the contract be terminated;
3. Directing that the contractor be barred from bidding on future contracting opportunities with the city;
4. Imposing a requirement that the contractor, in future bidding for city contracts, guarantee that it will meet a specific MBE or WBE goal;
5. If it is determined that a particular MBE or WBE subcontractor has been victimized by discrimination, directing that a specific subcontract be awarded to that subcontractor;
6. Any other remedy that the corporation counsel finds appropriate given the facts and circumstances of the particular case.

§48-17 Annual review and evaluation of program.

The Chief Compliance Officer with the assistance of, and after consultation with, all other appropriate city departments, shall issue a report to the common council stating the levels of MBE and WBE participation attained for procurement contracts awarded during the previous year; whether and to what extent the Chief Compliance Officer and the office of the corporation counsel have found violations of this chapter; whether, in light of the City's experiences under this chapter, including reports submitted by contractors, any modifications to this chapter should be adopted.

Section 2. This ordinance shall take effect 180 days from passage.

**APPROVED AS TO FORM
THIS 26TH DAY OF MAY, 2023**

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: Jake Eisland, Esq., Research Counsel

Re: Common Council Legislation
Supporting Memorandum

Date: September 14, 2023

Sponsor: Council Member Kimbrough

ORDINANCE 26.61.23

TITLE

AN ORDINANCE AMENDING CHAPTER 48 (EQUAL OPPORTUNITY PROTECTIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXPANDING THE SCOPE OF MINORITY-AND WOMEN-OWNED AND CONTROLLED BUSINESSES

GENERAL PURPOSE OF LEGISLATION

To expand the scope of the Minority and Women Owned Business Enterprise Program to include professional services and businesses already approved by New York State or Albany County.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

Many Minority and Women Owned Businesses are excluded from the MWBE program because their businesses are professional services, rather than simply a construction-related activity. Additionally, some businesses are excluded due to the repetitive bureaucracy that certification requires. This legislation will expand the MWBE program to include professional services and businesses already certified by the state and county.

FISCAL IMPACT(S)

Estimated to be around \$250,000.

Council Members Conti, Anane, Balarin, Farrell, Flynn, Hoey, Kimbrough, Robinson, and Zamer introduced the following:

LOCAL LAW B of 2025

A LOCAL LAW AMENDING THE CHARTER OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE IX ENTITLED: “CIVIC INCLUSION AND RIGHTS PROTECTION”

Be it enacted by the Common Council of the City of Albany as follows:

Section 1. The Charter of the City of Albany is amended by adding a new Article IX, entitled: “Civic Inclusion and Rights Protection” to read as follows:

Article IX. Civic Inclusion and Rights Protection

§ 901. Declaration of Inclusivity

The City of Albany affirms its commitment to being a welcoming, inclusive, and equitable municipality. All individuals, regardless of race, ethnicity, national origin, immigration status, religion, gender identity, sexual orientation, age, disability, socioeconomic status, or any other protected characteristic recognized under local, state, or federal law, shall be treated with dignity and respect.

§ 902. Protection Against Discriminatory Action

No local law ordinance, resolution, policy, or administrative action shall be enacted or enforced by the City of Albany that infringes upon, diminishes, or contradicts the protections afforded to individuals under applicable anti-discrimination laws, including but not limited to the Albany Human Rights Law, the New York State Human Rights Law, and federal civil rights statutes.

§ 903. Affirmative Duty to Uphold Rights

All departments, agencies, and officers of the City shall actively uphold and promote the principles of inclusivity and equal protection. This includes ensuring access to city services, public spaces, and civic participation without discrimination or bias.

§ 904. Enforcement and Review

Any proposed legislation or policy shall be subject to review for compliance with this Article. The Corporation Counsel shall certify that such proposals do not conflict with the protections outlined herein prior to adoption.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

**APPROVED AS TO FORM THIS
25TH DAY OF SEPTEMBER, 2025**

Corporation Counsel

To: Shaniqua Jackson, City Clerk

From: Richard Conti

Re: Request for Common Council Legislation
Supporting Memorandum

Date: May 7, 2025

Sponsor: Council Member Conti

LOCAL LAW B of 2025

TITLE

A LOCAL LAW AMENDING THE CHARTER OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE IX ENTITLED: "CIVIC INCLUSION AND RIGHTS PROTECTION"

GENERAL PURPOSE OF LEGISLATION

To affirm within the city charter the City of Albany's commitment to being a welcoming, inclusive, and equitable municipality.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

As a counter to the atmosphere of exclusion and erasure that's happening on the national level it's important to reaffirm that Albany is a welcoming community. This addition to the city charter is an important statement of principles and values appropriately placed in the charter as our primary governing document. By placing it in the charter it would be permanently enshrined in our city code as opposed to resolutions that Council from time to time adopts.

This Charter amendment does not require a referendum pursuant to section 23 of the Municipal Home Rule Law.

FISCAL IMPACT

None