

SUMMARY NO. 2489

INTRODUCED BY: CURTIS T. JOHNSON, SR., COUNCILMAN, DISTRICT V
VICTOR E. BRADLEY, JR., COUNCILMAN AT LARGE, DIVISION A

ORDINANCE NO. 88-9-12

An ordinance to amend the St. Charles Parish Code of Ordinances to establish a new Chapter to provide that the St. Charles Parish Purchasing Office shall for each fiscal year designate and set aside for awarding to small businesses, an amount not to exceed ten (10) percent of the value of anticipated total procurement of goods and services excluding construction.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. PROCUREMENT FROM SMALL BUSINESSES; SET ASIDE; PREFERENCE TO DISADVANTAGED; PREFERENCES TO WOMEN

(a) The Purchasing Agent shall for each fiscal year designate and set aside for awarding to small businesses, an amount not to exceed ten (10) percent of the value of anticipated total procurement of goods and services excluding construction. The Purchasing Agent shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses. In making his annual designation of set aside procurements, the Purchasing Agent shall attempt to vary the included procurements so that a variety of goods and services produced by different small businesses shall be set aside each year. The failure of the Agent to set aside particular procurements shall not be deemed to prohibit or discourage small businesses from seeking the procurement award through the normal solicitation and bidding processes.

(b) The Purchasing Agent shall establish a contract procedure in accordance with law for the awarding of a procurement contract under the set-aside program established in this section.

(c) Before making a set aside award, the Purchasing Agent shall evaluate whether the small business scheduled to receive the award is able to perform the set aside contract. This determination shall include consideration of production and financial capacity and technical competence.

(d) At least ten (10) percent of the value of the procurements designated for set aside awards shall be awarded, if possible, to businesses owned and operated by socially or economically disadvantaged persons. In the event small businesses owned and operated by socially or economically disadvantaged persons are unable to perform at least ten (10) percent of the set aside awards, then the Agent shall award the balance of the set aside contracts to other small businesses.

(e) In the event that the provisions of this section do not operate to extend a contract award to a small business, the award shall be placed pursuant to the existing solicitation and award provisions established by law. The Purchasing Agent shall thereupon designate and set aside for small businesses additional procurements corresponding in approximate value to the contract unable to be awarded pursuant to the provisions of this section.

(f) All laws and rules pertaining to solicitations, bid evaluations, contract awards and other procurement matters shall apply as consistent to procurements set aside for small businesses. In the event of conflict with other rules, the procurement provision of this section shall govern.

(g) A committee composed of three (3) members shall determine whether small businesses, small businesses owned and operated by socially

or economically disadvantaged persons, and small businesses owned, controlled and operated by women are eligible to participate under the requirements of this section. This committee shall be appointed by the Council and shall consist of one (1) representative from each of the following: the Parish Council, the Parish President and the Purchasing Agent. In order for a business entity to be eligible to receive a set-aside award, it must file with the committee an application to be recognized as a small business, a small business owned and operated by socially or economically disadvantaged persons, and/or a small business owned, controlled and operated by women. A copy of this filing shall also be submitted to the Council Secretary. In the event that the committee determines that the applicant is not a small business, a small business owned and operated by socially or economically disadvantaged persons, or a small business owned, controlled and operated by women, the applicant may appeal the committee's decision to the Parish Council. Any citizen may appeal the committee's determination that the applicant is a small business, a small business owned and operated by socially or economically disadvantaged persons, or a small business owned, controlled and operated by women. In the case of an appeal, the decision of the Council as to an applicant's eligibility shall be final. The procedure for determination of eligibility may include self-certification by a business, provided that the committee retains the ability to verify a self-certification. The committee shall promulgate other rules as may be necessary to carry out the duties set forth in this section.

(h) As used in this part, the following words and phrases shall have the meaning ascribed to them in this section, except as otherwise may be provided or unless a different meaning is plainly required by the context:

- (1) "Small business" means a business entity organized for profit, including an individual, partnership, corporation, joint venture, association or cooperative which is domiciled in and has its principal place of business in St. Charles Parish and which is not (i) dominant in its field of operation or (ii) an affiliate or subsidiary of a business in its field of operation.
- (2) "Dominant in its field of operation" means exercising a controlling or major influence in a business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, license agreements and facilities; sales territory; and nature of business activity. The following businesses shall be deemed dominant in their field of operation:
 - a. Manufacturing businesses which employ more than one hundred (100) persons and have in the preceding three (3) fiscal years exceeded a total of three million dollars (\$3,000,000.00) in gross receipts.
 - b. Nonmanufacturing businesses which employ more than twenty-five (25) persons and have in the preceding three (3) fiscal years exceeded a total of three million dollars (\$3,000,000.00) in gross receipts.
- (3) "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty (20) percent owned by a business dominant in that field of operation, or by partners, officers, directors, majority shareholders, or their equivalent of a business dominant in that field of operation.
- (4) "Socially or economically disadvantaged persons" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. This disadvantage may arise from cultural, social or economic circumstances or background or physical location.

(5) "Business owned by women" means a business that is at least fifty-one (51) percent owned by a woman or women, which woman or women also control and operate such business. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. In determining whether a business is fifty-one (51) percent owned by a woman or women, the percentage of ownership of the woman or women shall not be diminished because any such woman derives her ownership interest through the community property regime, provided that any such woman be the sole manager of the community enterprise of business as set forth in the Louisiana Civil Code, Article 2346 et seq.

(i) At least ten (10) percent of the value of the procurements designated for set-aside awards shall be awarded, if possible, to businesses owned, controlled and operated by women. In the event that businesses owned, controlled and operated by women are unable to perform at least ten (10) percent of the set-aside awards, the Agent shall award the balance of the set-aside awards to other small businesses.

(j) In the event that the provisions of this section do not operate to extend a contract award to a small business owned and operated by socially or economically disadvantaged persons, the Purchasing Agent shall thereupon designate and set aside for small businesses owned and operated by socially or economically disadvantaged persons additional procurements corresponding in approximate value to the contract unable to be awarded pursuant to the provisions of this section.

(k) In the event that the provisions of this section do not operate to extend a contract award to a small business owned, controlled and operated by women, the Purchasing Agent shall thereupon designate and set aside for small businesses owned, controlled and operated by women additional procurements corresponding in approximate value to the contract unable to be awarded pursuant to the provisions of this section.

SECTION II. ATTESTATION REQUIRED ON CERTAIN CONTRACTS

(a) An attestation from the Purchasing Agent shall be required to be attached on any contract to which the Parish is a party involving professional or personal services for which payment is rendered by the Parish, leases for real property leased by the Parish, or financial obligations involving an expenditure in excess of ten thousand dollars (\$10,000.00). The signature of the Purchasing Agent on said attestation shall constitute approval of the contract as to the availability of funds to fulfill the financial obligations contained in the contract and the Purchasing Agent shall not sign any attestation if funds in the amounts and for the purposes set forth in the contract are not available.

(b) The Council Secretary shall maintain a contracts file as part of the official records of that office. All contracts transmitted to the Council Secretary in accordance with the provisions of this section shall be placed in the contracts file and made available for public inspection.

NOW, THEREFORE, BE IT ORDAINED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL, do hereby amend the St. Charles Parish Code of Ordinances to establish a new Chapter to provide that the St. Charles Parish Purchasing Office shall for each fiscal year designate and set aside for awarding to small businesses, an amount not to exceed ten (10) percent of the value of anticipated total procurement of goods and services excluding construction.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: BRADLEY, SIRMON, TREGRE, ROBERTS, TALBOT, SOMME', JOHNSON, DUHE, GRIMES

NAYS: NONE

ABSENT: NONE

And the ordinance was declared adopted this 6th day of September, 1988, to become effective five (5) days after publication in the Official Journal.

Donald Hume

COUNCIL CHAIRMAN

Joan Beemel

SECRETARY

DELIVERED TO PARISH PRESIDENT 9-7-88

APPROVED: _____

DISAPPROVED: _____

Albert D. Hagan

PARISH PRESIDENT

RETURNED TO SECRETARY ON 9-8-88

AT 9 AM/PM

RECEIVED BY JB

SUMMARY NO. 3603

INTRODUCED BY: CURTIS T. JOHNSON, SR.

ORDINANCE NO. 93-3-3

An ordinance to amend Ordinance No. 88-9-12 deleting certain text therein in substituting other text therefor.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

That section I subsection "h" paragraph 1 of ordinance number 88-9-12 shall be amended to read as follows:

- (1) "Small business" means a business entity organized for profit, including an individual, partnership, corporation, joint venture association of cooperative which is domiciled in and has its principal place of business in Louisiana, and which is not (i) dominant in its field of operation or (ii) an affiliate or subsidiary of a business dominant in its field of operation.

NOW, THEREFORE, BE IT ORDAINED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL, do hereby amend Ordinance number 88-9-12, as set forth herein, providing for a definition of "small business" as it applies to certain procurement policies established by the amended ordinance.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: TRAMONTE, MINNICH, ALEXANDER, CHAMPAGNE, NASSAR, SOMME', JOHNSON, DUHE, DANFORD

NAYS: NONE

ABSENT: NONE

And the Ordinance was declared adopted this 8TH day of MARCH, 1993, to become effective five (5) days after publication in the Official Journal.

Barry Minnie
COUNCIL CHAIRMAN

Joan Bessel
SECRETARY

DELIVERED TO PARISH PRESIDENT 3-9-93

APPROVED:

DISAPPROVED:

Chad King
PARISH PRESIDENT

RETURNED TO SECRETARY ON 3-9-93

AT 10:30 AM / PM

RECEIVED BY JB