

BCC Mtg. Date: April 22, 2025

Effective Date: April 25, 2025

## **ORDINANCE 2025-07**

**AN ORDINANCE PERTAINING TO PROCUREMENT IN ORANGE COUNTY, FLORIDA; REVISING CHAPTER 17, ARTICLE III, DIVISION 4 (“MINORITY/WOMEN BUSINESS ENTERPRISE”); AMENDING SECTION 17-319 (“DEFINITIONS”), AMENDING SECTION 17-321 (“CONTRACT AND SUBCONTRACT GOALS”); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Orange County Board of County Commissioners (the “Board”) desires to have flexibility in contracting in order to complete public construction projects in the most cost effective and efficient manner; and

**WHEREAS**, the Board finds it necessary to amend certain sections of the Orange County Code in order to employ additional procurement methods to solicit construction projects in order to achieve that flexibility.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:**

***Section 1. Amendments; In General.*** For the purposes of this section, additions are shown by underlines, deletions are shown by ~~strikethroughs~~, and asterisks (\*\*\*) indicate portions of text which have not changed.

***Section 2. Amendment to Section 17-319 (“Definitions”).*** Section 17-319 is hereby amended to read as follows:

### **Sec. 17-319. - Definitions.**

When used in this division, the following terms are to be defined and construed as follows:

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*Good faith effort* (contracts) means the efforts undertaken by a contractor to obtain minority/women-owned business enterprise

participation in a contract, and shall include all the following actions:

(1) Written notice to minority/women business enterprises that provides the type of work that the contractor intends to subcontract. The notice shall be by e-mail or fax no fewer than seven (7) ~~calendar~~ business days prior to bid or proposal opening, or in the case of a submittal of a utilization plan in a construction manager at risk or design build project, seven (7) business days prior to submittal of the utilization plan. All e-mails shall include the legal name of the firm. The notice shall advise:

a. That the minority/women business enterprise interest in the contract is being solicited;

b. The specific work the contractor intends to subcontract;

c. How to obtain information about and review of the contract plans and specifications;

d. Information on bonding and/or other pertinent insurance requirements;

e. The deadline for bid, ~~or~~ proposal or utilization plan submission to the prime contractor and the bid or proposal opening date; and

f. That the prime contractor will provide the M/WBE guidance on following the project and subscribing to timely updates and addenda issued through the County's procurement system and provide the minority/women business enterprise no less than twenty-four (24) hours' notice of all addenda.

(2) The prime contractor shall list the divisions of contract work not subcontracted to a M/WBE and provide an explanation why the M/WBE goals were not achieved.

(3) Follow-up of initial submittals of interest by contacting minority/business enterprises and document using a contract log, which shall include the firm's name address, contact information (e-mail, telephone and/or fax numbers), scope of work requested, the date, name of person making the effort, denote if M/WBE will bid, time quote received and notes denoting if plans and specs were sent. Each bidder shall use the standardized contract log.

(4) Where a non-minority/non-woman contractor is listed for work for which a minority/women business enterprise availability exists, the prime contractor shall submit all quotations received from minority/women business enterprises and the listed contractor within twenty-four (24) hours, if one (1) of the three (3) apparent low bidders. The prime contractor shall provide an explanation as to why the ~~minority/women~~ M/WBE quotations were not accepted.

Receipt of a lower quotation from a non-minority/non-women business enterprise prior to or at the time of bid opening will not in itself excuse a contractor's failure to meet contract goals. However, a contractor's good faith effort obligation does not require a contractor to accept a quotation from a minority/women business enterprise which is an unreasonable price. For the purpose of this subsection, "unreasonable price" means a price above (or below) competitive levels which cannot be attributed to the minority/women business enterprise attempt to cover costs inflated by the present effect of discrimination.

(5) Contractor shall contact the business development division staff as a resource to obtain M/WBE participation within ten (10) calendar days of the posting of the solicitation.

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***Section 3. Amendment to Section 17-321 (“Contract and subcontract goals”).***

Section 17-321 is hereby amended to read as follows:

**Sec. 17-321. - Contract and subcontract goals.**

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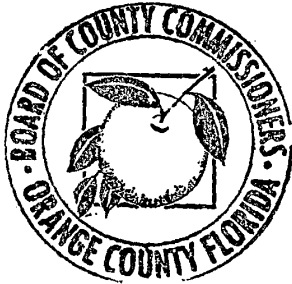
(g) In addition to any other requirements set forth in this division, contractors who are awarded contracts by the county shall submit a copy of their executed subcontract with the required language from the Business Development Division as provided in the competitive solicitation for each minority/women business enterprise listed in their bid/proposal prior to execution of a contract with the county. In the case of contractors who are awarded contracts by the county for a construction manager at risk (CMAR) project where design has not been completed prior to contract, or a design build project shall submit a copy of their executed subcontract with each M/WBE prior to execution of a guaranteed maximum price (in the case of a CMAR) or at the time of completion and approval by county of design (in the case of a design build project).

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***Section 4. Codification.*** The amendments to the Orange County Code set forth in Sections 2 and 3 shall be codified. No other sections or parts of sections of this ordinance shall be codified.

**Section 5.      *Effective Date.*** This Ordinance shall take effect pursuant to general law.

**ADOPTED THIS 22<sup>ND</sup> DAY OF April, 2025.**



**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: *Jerry L. Demings*  
for Jerry L. Demings  
Orange County Mayor

**ATTEST:** Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Phil Diamond*  
Deputy Clerk