

339-17

OFFICE OF THE  
DEMOCRATIC MINORITY



PETER J. CLINES, ESQ.  
MINORITY COUNSEL

**NASSAU COUNTY LEGISLATURE**  
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## Inter-Departmental Memo

To: Michael C Pulitzer, Clerk of the Legislature

From: Peter J. Clines, Esq., Minority Counsel *PJC*

CC: Hon. Norma Gonsalves, Presiding Officer

Hon. Kevan Abrahams, Minority Leader

Date: August 31, 2017

Re: A LOCAL LAW TO CREATE A MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE AND SERVICE-DISABLED VETERAN-OWNED BUSINESS BOND ASSISTANCE PROGRAM FOR BOND PROCUREMENT.

Attached please find the above referenced proposed local law which has been approved as to form per the Rules of the Legislature. Kindly distribute a copy to Presiding Officer Norma Gonsalves along with our request that this item be placed on the next available legislative agenda.

Kindly provide a time stamped hard copy acknowledgement of your receipt.

Thank you.

RECEIVED  
NASSAU COUNTY  
LEGISLATURE  
2017 AUG 31 A 10:01

Introduced by: Legislator Siela Bynoe.

Co-sponsored by: Minority Leader Kevan Abrahams and Legislators Ellen Birnbaum, Laura Curran, Delia DeRiggi-Whitton, Arnold W. Drucker, and Carrié Solages.

PROPOSED LOCAL LAW NO. – 2017

A LOCAL LAW TO CREATE A MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE AND SERVICE-DISABLED VETERAN-OWNED BUSINESS BOND ASSISTANCE PROGRAM FOR BOND PROCUREMENT.

APPROVED AS TO FORM

  
PETER J. CLINES MINORITY COUNSEL

2017 AUG 31 A 10:01

RECEIVED  
NASSAU COUNTY  
OFFICE OF THE CLERK

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

**Section 1.** A new Section 109A is hereby added to Title 53 of the Miscellaneous Laws of Nassau County to read as follows:

**SECTION 109A. Nassau County Bond Assistance Program for procurement.**

1. **Legislative intent and purpose.** The Nassau County Legislature hereby finds that minority and women-owned business enterprises and service-disabled veteran-owned businesses continue to face barriers to market entry, which frustrate the Legislature’s intent in establishing Title 53 and Title 82 of the Miscellaneous Laws of Nassau County. The Legislature also finds that minority and women-owned and service-disabled veteran-owned businesses are substantially more likely to be denied access to capital and that rigorous bonding requirements serve to block the participation of such businesses in County contracting opportunities. The purpose of this amendment shall be to assist minority and women-owned business enterprises and service-

disabled veteran-owned businesses in securing bonding required for the award of a County contract, thereby supporting the meaningful participation of such businesses in procurement. In order to assist in reducing aspects of the County's procurement process that hinder participation by minority and women-owned and service-disabled veteran-owned businesses, the Legislature hereby finds it necessary and proper for the County to establish a Bond Assistance Program to assist such businesses in satisfying surety bonding requirements for County procurement contracts.

2. **Definitions.**

- a. “Contract” shall mean any contract, purchase order or agreement of any kind or nature, however denominated, for the provision of goods, supplies, equipment, services, including but not limited to professional services and construction services, any agreement for the sale, purchase or other acquisition or disposition of real estate, any permit or license for the use of County property or facilities, any concession or franchise agreement and any grant agreement, to which the County or any of its subdivisions, departments, agencies, offices, commissions, boards, or other instrumentalities, including but not limited to the Nassau County Land Bank Corporation, is a party.
- b. “MWBE” shall mean minority-owned business enterprise as defined in Section 101, subsection 9 of Title 53 and women owned business enterprise as defined in Section 101, subsection 14 of Title 53 of the Miscellaneous Laws of Nassau County.
- c. “Program” shall mean the Nassau County Bond Assistance Program.
- d. “SDVOB” shall mean service-disabled veteran-owned business as set forth under Section 1, subsection 1 of Title 82 of the Miscellaneous Laws of Nassau County.
- e. “Third Party Administrator” shall mean an entity procured by Nassau County for the administration and recommended distribution of Program funds to eligible minority and women-owned business enterprises and service-disabled veteran-owned businesses.

3. **Establishment of the Nassau County Bond Assistance Program.** There is hereby established a Nassau County Bond Assistance Program, whereby a contracted Third Party Administrator shall act on behalf of the County to administer and recommend the provision of funding to eligible MWBEs and SDVOBs within the County in accordance with the procedures set forth under this Title. Such program shall advance the cost of surety bond premiums for the purpose of assisting eligible MWBEs and SDVOBs to satisfy bonding required for the awarding of certain County contracts and subcontracts.
  
4. **Procurement of a Third Party Administrator.**
  - a. The County shall retain a qualified Third Party Administrator for the purpose of administering the Program subject to the provisions set forth under this Title. Such Third Party Administrator shall be retained through a competitive bidding process.
  - b. The County shall enter into an agreement with the selected Third Party Administrator. Such agreement must be approved by the County Legislature prior to the Third Party Administrator's commencement of performance. Approval by the County Legislature shall likewise be required for any extension or renewal of such agreement.
  
5. **Duties of the Third Party Administrator.**
  - a. The designated Third Party Administrator shall administer and recommend the disbursement of Program funds on behalf of the County subject to the provisions set forth in this Section.
  - b. The designated Third Party Administrator shall have duties including, but not limited to:
    - i. establishing criteria for Program eligibility, which shall be subject to the approval of the Office of Minority Affairs and the County Legislature;

- ii. adopting lending and collateral policies, including but not limited to, interest payments, late fees, repayment schedules, and manner of repayment, subject to the approval of the County Legislature;
  - iii. assisting businesses in applying to other funding sources for funding to finance contractual expenses not covered by program funds;
  - iv. promoting and encouraging the participation of MWBEs and SDVOBs in the Program; and
  - v. developing necessary forms, instructional documents, procedures, manuals, and other written mechanisms for the operation of the Program.
- c. The Third Party Administrator shall determine the eligibility of applicants for participation in the Program. Any such determination shall be approved by the Office of Minority Affairs. The distribution of program funds shall be undertaken by the County Treasurer in collaboration with the Third Party Administrator subject to Comptroller review and approval as provided in the County Charter.

6. **Program Funding.** The Program shall be funded in an amount no less than \$1,000,000 from the following sources:

- a. from any funds as may from time to time be appropriated, including but not limited to the County's Excess Unreserved Fund Balance, for the purpose set out in this section; and
- b. any repayment of funds distributed and interest payments received under this Program.

7. **Application Procedure.**

- a. The Third Party Administrator, acting on behalf of the County, shall create forms, instruction documents, and other written materials relating to the implementation of a streamlined application process for program funding and make such materials available on the County website. The Third Party Administrator shall review submitted applications and determine the

eligibility of each applicant to receive funding based upon criteria established by the Third Party Administrator pursuant to subsection 5 of this Section.

- b. Any SDVOB certified pursuant to Section 1 of Title 82 of the Miscellaneous Laws of Nassau County or MWBE certified pursuant to Section 107 of this Title, may submit an application for program funds to be reviewed by the Third Party Administrator so long as it has not previously been approved to receive funding for the same purpose for which funding is sought under this program.
- c. If the Third Party Administrator approves an application on behalf of the County, the approved business shall be eligible to receive funds in accordance with the requirements set forth under subsection 8 of this Section.

8. **Bond Assistance Agreement.**

- a. In order to participate in the Program, any approved applicant shall enter into a Bond Assistance Agreement made between the MWBE or SDVOB and the Office of Minority Affairs.
- b. Provided that the provisions under this Title are met and the approved business remains registered and certified as an MWBE or SDVOB throughout its participation in the program, the execution of the Bond Assistance Agreement shall qualify the approved MWBE or SDVOB to receive funds through the County Treasurer in collaboration with the Third Party Administrator for the purpose of satisfying bonding requirements for County contracts.
- c. The Bond Assistance Agreement entered into by the certified MWBE or SDVOB and the Office of Minority Affairs shall include terms and conditions of repayment as established by the Third Party Administrator in coordination with the Office of Minority Affairs.
- d. Each Bond Assistance Agreement shall be subject to the approval of the County Legislature.

9. **Monitoring and Reporting.**

- a. The Office of Minority Affairs shall oversee the program and maintain regular contact with and report to the Third Party Administrator on a bi-monthly basis regarding the MWBEs' and SDVOBs' performance of County contracts.
- b. The Third Party Administrator shall produce and submit a quarterly report in writing to the Executive Director of the Office of Minority Affairs and the County Legislature. Such quarterly report shall include, but not be limited to:
  - i. a statement of the cost of the Program to the County;
  - ii. the number of applicants and recipients of Program funds; and
  - iii. any information the County shall deem useful in evaluating the progress, effectiveness, and economic impact of the program for MWBEs and SDVOBs in the Nassau County region.
- c. The Executive Director of the Office of Minority Affairs shall monitor the activities of the Third Party Administrator and shall submit a quarterly report in writing to the County Legislature on the progress of the program and the effectiveness of the Third Party Administrator in administering such program.

**Section 2. Severability.** If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 3. SEQRA Determination.** It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R. and section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning

of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

**Section 4. Effective Date.** This Local Law shall take effect immediately.



Introduced by: Legislator Siela Bynoe.

Co-sponsored by: Minority Leader Kevan Abrahams and Legislators Ellen Birnbaum, Laura Curran, Delia DeRiggi-Whitton, Arnold W. Drucker, and Carrié Solages.

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*Peter J. Clines*  
PETER J. CLINES/MINORITY COUNSEL

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- b. "MWBE" shall mean minority-owned business enterprise as defined in Section 101, subsection 9 of Title 53 and women owned business enterprise as defined in Section 101, subsection 14 of Title 53 of the Miscellaneous Laws of Nassau County.
- c. "Program" shall mean the Nassau County Bond Assistance Program.
- d. "SDVOB" shall mean service-disabled veteran-owned business as set forth under Section 1, subsection 1 of Title 82 of the Miscellaneous Laws of Nassau County.
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4. **Procurement of a Third Party Administrator.**

- a. The County shall retain a qualified Third Party Administrator for the purpose of administering the Program subject to the provisions set forth under this Title. Such Third Party Administrator shall be retained through a competitive bidding process.
- b. The County shall enter into an agreement with the selected Third Party Administrator. Such agreement must be approved by the County Legislature prior to the Third Party Administrator's commencement of performance. Approval by the County Legislature shall likewise be required for any extension or renewal of such agreement.

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- b. The designated Third Party Administrator shall have duties including, but not limited to:
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- ii. adopting lending and collateral policies, including but not limited to, interest payments, late fees, repayment schedules, and manner of repayment, subject to the approval of the County Legislature;
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- v. developing necessary forms, instructional documents, procedures, manuals, and other written mechanisms for the operation of the Program.

c. The Third Party Administrator shall determine the eligibility of applicants for participation in the Program. Any such determination shall be approved by the Office of Minority Affairs. The distribution of program funds shall be undertaken by the County Treasurer in collaboration with the Third Party Administrator subject to Comptroller review and approval as provided in the County Charter.

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- b. The Third Party Administrator shall produce and submit a quarterly report in writing to the Executive Director of the Office of Minority Affairs and the County Legislature. Such quarterly report shall include, but not be limited to:
  - i. a statement of the cost of the Program to the County;
  - ii. the number of applicants and recipients of Program funds; and
  - iii. any information the County shall deem useful in evaluating the progress, effectiveness, and economic impact of the program for MWBEs and SDVOBs in the Nassau County region.
- c. The Executive Director of the Office of Minority Affairs shall monitor the activities of the Third Party Administrator and shall submit a quarterly report in writing to the County Legislature on the progress of the program and the effectiveness of the Third Party Administrator in administering such program.

**Section 2. Severability.** If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 3. SEQRA Determination.** It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R. and section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning

of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

**Section 4. Effective Date.** This Local Law shall take effect immediately.