



# City of Chicago



O2016-6412

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	9/14/2016
<b>Sponsor(s):</b>	Austin (34)
<b>Type:</b>	Ordinance
<b>Title:</b>	Amendment of Municipal Code Chapter 2-92 by adding new Article VII entitled "Mid-Sized Business Initiative Construction Program"
<b>Committee(s) Assignment:</b>	Committee on Budget and Government Operations

Budget

**ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new Article VII, as follows:

**ARTICLE VII. MID-SIZED BUSINESS INITIATIVE CONSTRUCTION PROGRAM (2-92-800, et seq.)**

**2-92-800 Application of article.**

This Article shall apply to construction contracts. This Article is enacted pursuant to the home rule powers of the city and supersedes any inconsistent provision of any law or regulation of the State of Illinois to the extent such inconsistency is permitted under the home rule powers of the city. This Article shall not apply to any construction contract to the extent that it is inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under the home rule powers of the city. In connection with any construction contract funded in whole or in part from state or federal sources, state or federal standards and regulations shall control to the extent this Article is inconsistent with such federal or state standards.

**2-92-810 Definitions.**

For purposes of this Article VII, the following definitions shall apply:

“Chief procurement officer” means the city’s chief procurement officer.

“Construction contract” means a contract, purchase order or agreement (other than a lease of real property) for the construction, repair or improvement of any building, bridge, roadway, sidewalk, alley, railroad or other structure or infrastructure, awarded by any officer or agency of the city other than the city council, and whose cost is to be paid from funds belonging to the city.

“Department of procurement services” or “D.P.S.” means the city’s department of procurement services.

“Local business enterprise” means a business entity located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the “Six County Region”), which has the majority of its regular, full time work force located within the Six County Region.

“Mid-sized Business Initiative construction program” or “M.B.I. construction program” means the program established pursuant to this Article VII.

"Mid-sized local business enterprise" or "M.S.B." means a local business enterprise that has gross receipts, averaged over its previous five fiscal years, or number of employees, per pay period averaged over the past twelve months, that do not exceed one and a half times the size standards set forth in 13 C.F.R. Part 121.

**2-92-820 M.B.I. construction program – Established.**

Unless otherwise prohibited by any federal, state or local law, the chief procurement officer shall establish a race- and gender-neutral program to increase M.S.B.s' participation in construction contracts. The chief procurement officer is authorized to identify and offer construction contract projects for exclusive participation of M.S.B.s. The estimated costs of such projects shall not be less than \$3,000,000 nor more than \$10,000,000.

**2-92-830 M.B.I. construction program – Eligibility.**

To be eligible for the M.B.I. construction program, a business enterprise must:

- (1) be a mid-sized local business enterprise;
- (2) be in business for at least two years at the time the business enterprise claims to be eligible for the M.B.I. construction program;
- (3) perform more than fifty percent of the work on the construction project with its own work force or subcontractors that are mid-sized local business enterprises; and
- (4) be independent, and must not be an affiliate or subsidiary of any other business enterprise. For purposes of this subsection, the chief procurement officer shall have the sole authority to determine the independence of a business enterprise.

**2-92-840 M.B.I. construction program – Presumption, attestation and notification.**

(a) Minority-owned business enterprises and women-owned business enterprises, as defined in Section 2-92-670, shall be presumed to be M.S.B.s.

(b) Except as otherwise provided in subsection (a), any business enterprise that claims to be an M.S.B. shall at the time of such claim, and annually thereafter, submit an affidavit, in a form prescribed by the chief procurement officer, attesting that it meets the M.S.B. eligibility requirements provided in Section 2-92-830. The chief procurement officer is authorized to investigate the accuracy of the information provided in, and require documents and information in support of, such affidavits.

(c) M.S.B.s and business enterprises presumed to be M.S.B.s shall notify the department of procurement services of any change that affects such enterprises' M.S.B. status within five business days of the occurrence of such change.

**2-92-850 Reporting requirements.**

The chief procurement officer is authorized to impose reasonable reporting requirements on participants in the M.B.I. construction program. Such reporting requirements shall be designed and used to evaluate the effectiveness of the program. Any M.B.I. construction program participant shall comply with the reporting requirements as required by the chief procurement officer.

**2-92-860 Rules and regulations.**

The chief procurement officer is authorized to adopt rules and regulations for the proper administration and enforcement of this Article VII.

**2-92-870 Enforcement.**

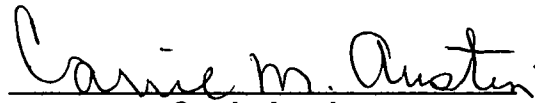
(a) *Fraudulent misrepresentation.* If the chief procurement officer determines, after notice and a hearing before the chief procurement officer, that any M.S.B. has made fraudulent misrepresentations to the city regarding its M.S.B. status, or has colluded with another making such fraudulent misrepresentations, the M.S.B. shall be declared ineligible to contract or subcontract on additional contracts. Upon making a finding of ineligibility, the chief procurement officer shall determine the period of ineligibility imposed, which may include permanent or indefinite ineligibility, or ineligibility for a lesser duration. No M.S.B. shall be disqualified for collusive misrepresentations unless all parties with which the M.S.B. was found to have colluded with are also disqualified. The city shall regard as nonresponsive any bid submitted during such period of ineligibility which includes a disqualified entity as a contractor, subcontractor or member of a joint venture. In the event that a contractor submitting a bid is determined by D.P.S. not to have been involved in any misrepresentation of the status of a disqualified subcontractor included in the bid, D.P.S. may allow the contractor to discharge the disqualified subcontractor and, if possible, identify and engage a qualified subcontractor as its replacement for inclusion in the bid. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject. D.P.S. shall inform the State's Attorney of Cook County of instances of fraudulent misrepresentation and collusion.

(b) In addition to any other penalty imposed by law, any person who knowingly obtains, or knowingly assists another in obtaining, a contract with the city by falsely representing that the entity, or the entity assisted, is an M.S.B. is guilty of a misdemeanor, punishable by incarceration in the county jail for a period not to exceed six months or a fine of not less than \$5,000 and not more than \$10,000, or both.

(c) *Other violations.* Except as otherwise provided in subsections (a) and (b), any person who violates this Article VII shall be fined not less than \$1,000 nor more than \$5,000 for each offense.

**SECTION 2. Severability.** In the event that any section, subsection, paragraph, clause, provision or application of Article VII of Chapter 2-92 of the Municipal Code of Chicago shall be held invalid by any court, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.

**SECTION 3.** This ordinance shall take effect 10 days after passage and publication.

A handwritten signature in black ink that reads "Carrie M. Austin". The signature is written in a cursive style with a horizontal line underneath it.

**Carrie Austin**  
**Alderman, 34<sup>th</sup> Ward**