

TRANSMITTAL LETTER FOR BOARD MEETING OF APRIL 21, 2022

COMMITTEE ON AFFIRMATIVE ACTION

Mr. Brian A. Perkovich, Executive Director

..Title

Authority to amend the Metropolitan Water Reclamation District of Greater Chicago's Affirmative Action Ordinance, Revised Appendix D to prohibit a prime contractor from utilizing its status as an MBE, WBE or SBE toward the fulfillment of participation goals

..Body

Dear Sir:

On July 20, 1978, the Board of Commissioners of the Metropolitan Water Reclamation District (District) enacted its Affirmative Action Program as an ordinance. In April of 1989, the Board of Commissioners adopted an interim Appendix D Ordinance (Ordinance) that suspended all numerical goals for the utilization of minority-owned business enterprises (MBEs) and women-owned business enterprises (WBEs) while the District investigated ways in which to craft the program so as to come into conformity with the criteria established by the United States Supreme Court in *City of Richmond v. Croson*, 488 U.S. 469 (1989). The new Ordinance, passed on March 15, 1990, included flexible, industry-specific goals based upon market availability, a waiver provision, and periodic evaluation. Since that time, there have been several periodic reviews of the Ordinance, with modification being made as needed.

On June 4, 2015, the Board of Commissioners once again adopted Appendix D, affirming that the District's Affirmative Action Program is necessary so that the District will not function as a passive participant in a discriminatory marketplace in the Metropolitan Chicago construction industry. The Ordinance included a five year sunset provision ending on June 4, 2020. On May 21, 2020, the Board of Commissioners amended the sunset provision of the Ordinance from June 4, 2020 to December 31, 2021 to allow time to conduct a Disparity Study. Once again on December 2, 2021, the Board of Commissioners amended the sunset provision from December 31, 2021 to June 30, 2022 to allow time to review the results of the Disparity Study.

At the March 17, 2022 Board of Commissioners meeting, it was requested that the District amend the Ordinance to prohibit a prime contractor from utilizing its status as an MBE, WBE or SBE toward the fulfillment of participation goals. Therefore, it is respectfully requested that the Executive Director recommend to the Board of Commissioners the approval of this amendment to the Affirmative Action Ordinance, Revised Appendix D.

Requested, Regina D. Berry, Diversity Administrator, RDB:PCS

Respectfully Submitted, Barbara J. McGowan, Chairman Committee on Affirmative Action

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for April 21, 2022