Senate Resolution No. 964

BY: Senator SANDERS

MEMORIALIZING Governor Kathy Hochul to proclaim May 9, 2023, as MWBE Advocacy Day in the State of New York

WHEREAS, MWBE (Minority and Women-Owned Business Enterprise) Advocacy Day represents economic empowerment for minorities and women who own and operate a business; and

WHEREAS, Despite decades of legislation and programs in both New York City and New York State to level the playing field for MWBEs, disparities continue to persist; and

WHEREAS, In 1988, the New York State Executive Law Enacted Article 15-A to ensure and promote fair and equal employment and minority and women-owned business participation in State contracts through the establishment of goals for minority and women-owned business participation; and

WHEREAS, In 1989, the U.S. Supreme Court ruling in the landmark case City of Richmond v. J.A. Croson Co., and others that followed it, set legal boundaries for municipalities intending to create minority business enterprise programs, establishing that government must provide evidence that a significant disparity exists between the utilization of minority or women-owned companies and the number of such companies capable and willing to do the work, and the disparity cannot be based solely on population statistics; and

WHEREAS, In 2005, New York City established the MWBE program, via local law 129, to promote the growth and success of minority and women-owned businesses in the city, requiring that a certain percentage of the city's contracts for goods, services, and construction be awarded to MWBE firms, and aiming to address historical inequities in contracting opportunities for MWBEs and promote economic growth and diversity in the city; and

WHEREAS, Other municipalities across New York State launched and established local MWBE programs, including Buffalo, Schenectady, Rochester, and other highly-populated cities with successful results; and

WHEREAS, In 2010, the State first commissioned a disparity study that would later be used to establish statewide goals for minorities and women in state contracts, and in 2016, another study was completed; both studies revealed a disparity of MWBEs, showing the continued disenfranchisement of MWBEs from billions of dollars of State and City contracting and procurement opportunities, and revealing they are not at an equal playing field with MWBE utilization being disproportionately lower than MWBE availability in every category of state contracting across racial groups; and

WHEREAS, The Disparity Studies recommended several actions to address these disparities, including increasing outreach to MWBEs, improving access to bonding and insurance, and increasing the use of race-conscious and gender-conscious measures in City contracting, eliminating the personal net worth and increasing Minority and Women Contract workers; and

WHEREAS, In 2014, New York State launched the MWBE Certification Campaign to encourage minority and women business owners to certify with the State and take advantage of billions of dollars in State procurement opportunities; the Governor pledged to increase MWBE certification by an additional 2,000 businesses, a goal the State exceeded in January 2016; as a result, the number of State-certified firms had more than doubled in just five years; and

WHEREAS, The City has committed to implementing these recommendations to improve equity and opportunity for MWBEs in City contracting, and the New York City Certification Campaign tripled the amount of certified MWBE firms since 2015, from 4,000 to 11,000; through implementing provisions of Local Law 174 of 2019 and Local Law 176 of 2019, various amendments were made to the process by which MWBEs are certified; and

WHEREAS, On July 15, 2019, Executive Law Article 15-A was signed to reauthorize the extension of programs which included MWBE certification being extended from three to five years, and to facilitate and expedite the processing of applications; and

WHEREAS, In October 2022, Mayor Adams announced New York City surpassed its 10-year OneNYC goal to award $25 billion in contracts to minority and women-owned business enterprises (MWBE) by Fiscal Year (FY) 2025, three years ahead of schedule; and

WHEREAS, In December 2022, legislation was advanced to break more economic barriers including allowing businesses to use MWBE Development and Lending Program Funds to refinance existing debts, doubling the award contract threshold from $500,000 to $1M for New York City, to award contracts without a formal competitive process, a framework and funding to prevent fraud and abuse within the MWBE Program; and

WHEREAS, Additionally, the Dormitory Authority of the State of New York (DASNY) pilot mentorship program and Department of Design and Construction (DDC) mentorship program allows businesses to be mentored by experienced construction management firms on all facets of procurement and contracting processes and procedures; at the MTA, changes of procurement statute revisions included the increase of the threshold to $1.5M for awards to MWBEs, and opportunities to include Certified Service-Disabled Veteran-Owned Small Businesses (SDVOBs), expediting the overall certification process, and increasing transparency by publishing waivers; and

WHEREAS, To mark MWBE Advocacy Day, City and State agencies and MWBEs and MWBE stakeholders will have the opportunity to meet and network with each other to discuss ways to increase participation and

improve the quality of programs through access of State funding; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Kathy Hochul to proclaim May 9, 2023, as MWBE Advocacy Day in the State of New York; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to The Honorable Kathy Hochul, Governor of the State of New York; and MWBEs across the State.