



AGENDA REPORT

TO: Oakland City Council, Mayor Libby
Schaaf, and City
Administrator Ed Reiskin

FROM: Loren M. Taylor
Councilmember – District 6

SUBJECT: Local Business Empowerment
Through Contracting (LBETC)
Ordinance

DATE: December 10, 2020

RECOMMENDATION

Approve An Ordinance Amending Ordinance No. 13101 C.M.S., Which Revised Oakland’s Local And Small Local Business Enterprise (L/SLBE) Program Provisions, To (1) Change Local And Small Local Trucking Participation Requirements; And (2) Implement A New Sheltered Markets Rotational Program; And (3) Adjust The LBE Size Standard, Create A New Local Business Certification Category, And Adjust Associated Bid Discounts; And (4) Change The Definition Of “Substantial Presence,” And “Local-Based Manufacturer”, And “The Rule Of Three”; And (5) Limit Modifications To L/SLBE Schedules After Bid Opening; And (6) Establish Separate Program Provisions Specific To Disposition And Development Agreements (DDA) And All Other Similar Agreements; And (7) Apply City Policies To The Procurement Of Goods And Services By Way Of The Use Of Cooperative Agreements; And (8) Establish A Local Business Advisory Taskforce; And (9) Establish And Fund Additional Employee Positions Necessary To Implement The Adopted Program Enhancements (10) And other program enhancements to address race and gender disparities in local contracting and procurement.

EXECUTIVE SUMMARY

In 2011, the Oakland City Council passed Ordinance 13101, which revised Oakland’s Local and Small Business Enterprise Program (L/SLBE). The Oakland City Council now seeks to amend existing policies to better serve the Oakland business community. Members of the business community have complained about the difficulty of small and local Oakland businesses in obtaining contracts with the City, and the recently released 2017 Race and Gender Disparities Study shows that Black-owned and women-owned businesses, face significant challenges accessing city contracting & procurement opportunities.

The Council seeks to address the identified race and gender disparities and increase the use of Oakland L/SLBEs in all City contracting, including disposition and development agreements, commodities and other services, cooperative agreements and all other economic opportunities available to the Oakland business market and to expressly include opportunities for disadvantaged business groups. The following amendments to the City’s Local and Small Local Business Enterprise (L/SLBE) Program are submitted for adoption:

Item: 20-0755
City Council
December 15, 2020

1. Revise the City's L/SLBE Trucking Program requirements by (a) requiring that to meet the 50% participation goal, contractors may only use trucking companies certified through the L/SLBE trucking program and (b) removing the requirement that companies house or store trucks within the City's geographic region, and
2. Implement a revised Sheltered Market Rotational Program where the City will award, on a rotational basis, to SLBEs and VSLBEs informal construction contracts and informal professional services contracts that are valued at \$50,000 and under according to market specialty; and
3. Create a business certification category referred to as a:
 - a. "Small Business Administration-Local Oakland Business Enterprise (SBA-LBE) category; and
 - b. Reduce the size standard of an LBE where the 3-year average of gross receipts is less than or equal to 80% of the 3-year average revenue generated by Oakland businesses according to each industry; and
4. Redefining "substantial presence" and "local-based manufacturer" as applied to City-related businesses; and
5. Limiting modifications to L/SLBE schedules after bid opening; and
6. Applying a 5% discount to a VSLBE prime contractor during construction bid evaluation, and a 5% bid discount for professional services contract bids where the VSLBE meets a 50% subcontractor goal; and
7. Requiring that all developers participating in a Development and Disposition Agreement submit a schedule of the projected awards of construction and construction-related agreements prior to executing the DDA, with all such agreements required to include the L/SLBE Program requirements; and
8. Requiring that the City's Department of Workplace and Employment Standards confirm in writing that needed goods or services from potential cooperative agreements are not offered by an L/SLBE before the City executes such a cooperative agreement, and allowing the City Administrator to enter into a contract with the identified L/SLBE at similar terms as defined in the cooperative agreement without a competitive bid process and without returning to council; and
9. Increasing the preference percentage for Mentor-Protégé and Joint Venture teams on construction and professional services contracts from 5% to 10%, and establishing criteria for eligible agreements that ensures mentees and junior JV partner receive the intended mentorship and growth opportunity in addition to the business opportunity. Mentor protégé teams may not exceed two per project; and updating the list of schedules applicable to the L/SLBE program.
10. Establish a Local Business Advisory Taskforce that supports the Contracts & Compliance Division of DWES in meeting its L/SLBE prime contracts and

subcontracts goals, including increasing access to contracting opportunities and advancing initiatives that impact L/SLBE participation

BACKGROUND / LEGISLATIVE HISTORY

On December 18, 2001, the City Council adopted Ordinance No. 12389 C.M.S., which authorized Oakland's Local and Small Business Enterprise (L/SLBE) Program. On December 20, 2011, the City Council adopted Ordinance No. 13101 C.M.S. amending Ordinance No. 12389 C.M.S., to, among other things, change business size standards and establish new LBE categories, increase local and small business participation requirements, establish new preference program requirements for Very Small Business Enterprises (VSBE), local businesses that produced goods (LBE-LPG), and increase penalties for noncompliance.

This Ordinance amends Ordinance 13101 and provides further changes to the Oakland's Local and Small Business Enterprise Program. Members of the business community including professional and construction contractors requested changes to the City's contracting program to make small local Oakland businesses more competitive. Also, the City of Oakland released the 2017 Race and Gender Disparity Study which recommended several amendments to increase opportunities for small local businesses. Finally, City staff suggested changes to the City's Local and Small Business Enterprise Program Manual.

Councilmember Taylor requested that this item be scheduled to the November 17, 2020 CED Committee. Upon hearing the item, The CED Committee voted to forward this item to the City Council meeting on December 15, 2020.

ANALYSIS AND POLICY ALTERNATIVES

The following is an analysis of how the proposed amendments will serve to address the lack of contracts received by small and local Oakland businesses.

- 1) Revise the City's L/SLBE Trucking Program by (a) requiring that to meet the 50% participation goal, contractors may only use trucking companies certified through both the L/SLBE Trucking Program; and (b) removing the requirement that companies house or store trucks within the City's geographic region.**

Local trucking businesses experience similar disproportionate utilization as identified in other business categories. A small number of firms receive most of the City's trucking contracts. The city of Oakland has two parallel trucking certification programs, one underneath the L/SLBE Program administered by Contracts Compliance, and the other as part of the Public Works Trucking Certification Program. This proposal requires that prime truckers fulfill their contractual requirements by selecting truckers from a certified list of SLBE Truckers who have been certified through both the L/SLBE program and through the Public Works Department's Trucking Certification Program.

The number of registered LBE/SLBE Truckers in Oakland has decreased over time and a contributing factor is the increased cost of real estate because the program requires local truckers to garage their vehicles in Oakland. Eliminating this requirement but

maintaining all other requirements for “local business” as proposed by this ordinance will eliminate a barrier faced by local Oakland businesses participating in the program and is expected to increase the number of trucking companies on the certified list.

2) Implement a Sheltered Market Program where the City will award, on a rotational basis, to SLBEs and VSLBEs informal construction contracts and informal professional services contracts that are valued at \$50,000 and under according to market specialty.

To meet the L/SLBE Program objectives, the City enacted a 25% goal for LBE participation on its contracts and a 25% goal for SLBE participation. The minimum participation requirements are mandatory and apply to construction contracts valued over \$100,000, professional services contracts valued over \$50,000, and goods and services contracts valued over \$50,000.

During the data analysis period, for those contracts below \$50,000, African American-owned prime businesses received 6.56% of construction contract dollars while Woman-owned prime businesses received 4.52% of contract dollars despite having availability of 16.51% and 8.14% respectively (yielding disparity ratios of .40 and 0.56). See the image of Table 6.4 (below) excerpted from the Race & Gender Disparity Study.

Table 6.4: Disparity Analysis: Construction Prime Contracts Valued Under \$50,000, July 1, 2011, to June 30, 2016

Race	Actual Dollars	Utilization	Availability	Expected Dollars	Dollars Lost	Disp. Ratio	P-Value
African Americans	\$237,449	6.56%	16.51%	\$597,225	-\$359,776	0.40	< 0.05 *
Asian Pacific Americans	\$546,948	15.12%	3.95%	\$142,998	\$403,950	3.82	**
Asian Indian Americans	\$21,085	0.58%	0.70%	\$25,235	-\$4,150	0.84	---
Hispanic Americans	\$491,751	13.60%	7.21%	\$260,760	\$230,990	1.89	**
Native Americans	\$0	0.00%	0.23%	\$8,412	-\$8,412	0.00	---
Caucasian Females	\$38,095	1.05%	4.88%	\$176,644	-\$138,549	0.22	< 0.05 *
Non-minority Males	\$2,281,672	63.08%	66.51%	\$2,405,725	-\$124,054	0.95	**
TOTAL	\$3,616,999	100.00%	100.00%	\$3,616,999			
Race and Gender	Actual Dollars	Utilization	Availability	Expected Dollars	Dollars Lost	Disp. Ratio	P-Value
African American Females	\$0	0.00%	1.86%	\$67,293	-\$67,293	0.00	< 0.05 *
African American Males	\$237,449	6.56%	14.65%	\$529,932	-\$292,483	0.45	< 0.05 *
Asian Pacific American Females	\$125,302	3.46%	0.70%	\$25,235	\$100,067	4.97	**
Asian Pacific American Males	\$421,645	11.66%	3.26%	\$117,763	\$303,883	3.58	**
Asian Indian American Females	\$0	0.00%	0.23%	\$8,412	-\$8,412	0.00	---
Asian Indian American Males	\$21,085	0.58%	0.47%	\$16,823	\$4,262	1.25	**
Hispanic American Females	\$0	0.00%	0.47%	\$16,823	-\$16,823	0.00	---
Hispanic American Males	\$491,751	13.60%	6.74%	\$243,937	\$247,814	2.02	**
Native American Females	\$0	0.00%	0.00%	\$0	---	---	---
Native American Males	\$0	0.00%	0.23%	\$8,412	-\$8,412	0.00	---
Caucasian Females	\$38,095	1.05%	4.88%	\$176,644	-\$138,549	0.22	< 0.05 *
Non-minority Males	\$2,281,672	63.08%	66.51%	\$2,405,725	-\$124,054	0.95	**
TOTAL	\$3,616,999	100.00%	100.00%	\$3,616,999			
Minority and Females	Actual Dollars	Utilization	Availability	Expected Dollars	Dollars Lost	Disp. Ratio	P-Value
Minority Business Enterprises	\$1,297,233	35.86%	28.60%	\$1,034,630	\$262,603	1.25	**
Woman Business Enterprises	\$163,397	4.52%	8.14%	\$294,407	-\$131,010	0.56	not significant
Minority and Woman Business Enterprises	\$1,335,328	36.92%	33.49%	\$1,211,274	\$124,054	1.10	**

(*) denotes a statistically significant underutilization.
 (†) denotes a statistically significant overutilization.
 (**) this study does not test statistically the overutilization of minority and woman-owned businesses or the underutilization of non-minority male-owned businesses.
 (---) denotes an underutilized group with too few available firms to test statistical significance.
 (^) The statistical test could not detect the disparity because there were less than two contracts awarded.

To address the significant under-utilization of certain available SLBE businesses, a Sheltered Markets rotational program should be implemented to ensure more equitable access to contracting opportunities. As recommended in the 2017 Race and Gender Disparity Study, we agree that:

“Informal construction and professional services contracts \$50,000 and under should be awarded to SLBEs on a rotational basis through a Sheltered Market Program. Each specialty within construction and professional services should have its own certified lists. Certified SLBEs should be placed automatically on the rotation list according to their certification date and specialty. Businesses with the same certification date, industry and specialty should be placed alphabetically, according to the owner’s last name. Whenever two or more businesses are appended to the rotation list, the placement should follow the same procedure. After a business on the rotation list receives a contract, it should be placed at the end of the list. Contracts and Compliance should approve all contracts awarded through the Sheltered Market Program.”

Implementing this recommendation is not expected to have a major, impact on large scale projects since the sheltered market program will only apply to informal contracts \$50,000 and under. Based on anticipated learnings from implementing this program, it is our intent to scale this program in the near future to ensure that a Sheltered market program exists for formal as well as informal contracts, thereby increasing access to higher value opportunities.

3) Creating a Small Business Association-Sized Local Business Enterprise (SBA-LBE) category and reducing the size of an SLBE where revenue generated is 80% or more of that generated by Oakland businesses according to each industry.

As captured in the 2017 Race and Gender Disparities Study,

“The United States Small Business Administration (SBA) revenue and employee count are the size standards used to define eligibility for the L/SLBE Program. SBA sets the size standards by revenue and employee count and type of contract within four industries. The four industries, as shown in Table 10.29, are construction, professional services, goods, and services. The current SLBE size standards are 30% of the SBA revenue size standards, as shown in Table 10.30.

Table 10.29: Size Standards as Percentage of SBA Standards

Industry	SBA Revenue Size Standard	SLBE Size Standard at 30% of SBA
Heavy Construction	\$36,500,000	\$10,950,000
Special Trade	\$15,000,000	\$4,500,000
Architectural Services	\$7,500,000	\$2,250,000
Engineering, Surveying, and Mapping	\$15,000,000	\$4,500,000
Other Electronic and Precision Equipment	\$20,500,000	\$6,150,000
Business Support Services	\$15,000,000	\$4,500,000
Janitorial Services	\$18,000,000	\$5,400,000
Other Support Services	\$20,500,000	\$6,150,000

The current SLBE size standards are as high as \$10.9 million for heavy construction. Consideration should be given to the revenue of Oakland businesses in calculating size standards for the L/SLBE Program. Info USA, which is a business database that compiles data from over 10,000 sources, reports that less than 3% of Oakland businesses have a revenue greater than \$10 million. The annual revenue of businesses in the City of Oakland in 2019, as reported in Info USA, is shown in Table 10.30. 10-31 Mason Tillman Associates, Ltd., February 2020 Draft Report for Discussion Purposes City of Oakland 2017 Race and Gender Disparity Study Recommendations

Table 10.30: City of Oakland Businesses: Size Standards by Annual Revenue

Annual Revenue	Percent of Business
Less than \$500,000	43.92%
\$500,001 - \$1,000,000	23.89%
\$1,000,001– \$2,500,000	11.82%
\$2,500,001 - \$5,000,000	15.61%
\$5,000,001 - \$10,000,000	2.60%
Over \$10,000,000	2.15%

Source: InfoUSA December 2019

December 2019 In order to achieve the L/SLBE Program objective of increasing the utilization of Oakland small businesses, it is important to align the SLBE size standard more closely with the average revenue of Oakland businesses. As shown in Table 10.30, the revenue of the average Oakland business is considerably lower than the SBA revenue levels. In fact, the current L/SLBE size standard represents on average nearly 80% of all Oakland businesses. Given the revenue of Oakland businesses in 2019, the SLBE size standard should not be calculated on the SBA size standard. Instead SLBE size standards should be determined based on the annual revenue of Oakland businesses. The standards should be reviewed every five years to reflect changes in the revenue of businesses in the City of Oakland. The recommendation is to set the size standard at 80 % of the City of Oakland businesses' annual revenue. At 80% of the 2019 revenue reported by Info USA, the SLBE size standard would be \$2.5 million.”

Based on this analysis and the recognition that the previously established size standard for Oakland small businesses (30% of the SBA size standard) is too high of a threshold for Oakland's market, we propose adopting the recommendation of establishing an Oakland-market specific size standard by industry category that aligns to 80% of the average revenue for all Oakland companies in a given category.

In addition, there are many local businesses that do not qualify as small businesses in Oakland but are defined as small businesses according to the Federal government's definition of Small Business given their annual revenues. These Oakland businesses should be given support to become more competitive against non-Oakland businesses

and businesses that exceed the SBA size standard. The creation of a new small business size category, called SBA-sized Local Business Enterprise (SBA-LBE), for local businesses that fall below the SBA size standard will allow Oakland to support this category of small businesses allowing them to be more competitive in accessing city contracts under all circumstances except for those where they are competing with local businesses in the smaller size categories.

4) Redefining “substantial presence” as applied to City-related businesses and defining a “local-based manufacturer.”

To qualify for the City of San Francisco’s LBE Program, businesses must have more than 50% of their workforce located in San Francisco, whereas Oakland has never had such a requirement, thereby establishing a low barrier to qualification as a “local Oakland business”. This practice is seen to have an adverse impact on the ability for true Oakland-based businesses because they are treated the same as larger businesses who are headquartered outside of Oakland, and most often are less integrated into the culture and economy of Oakland.

The proposed change will establish a tighter definition of “substantial presence” that a company must meet to qualify for the City’s L/SLBE Program. Specifically, there will be a requirement that at least 20% of the company’s workforce be based out of their Oakland location. Based on feedback from several chambers of commerce we have also established a minimum number of Oakland-based employees as an alternative criterion for qualification (at least 50 Oakland-based employees for construction companies, and at least 10 Oakland-based employees for professional services companies).

5) Limiting modifications to L/SLBE schedules after bid opening.

When L/SLBE schedules can be easily modified after the initial bid, there is less incentive for a bidder to put forth their best offer/ commitment to satisfy the city’s small and local business requirements. A savvy bidder could decline to propose any L/SLBE commitment and subsequently negotiate the minimum level of participation to successfully win the bid. The purpose of this change is to increase L/SLBE program participation by requiring that all responsive bids have a minimum level of L/SLBE commitment at the time of their initial bid.

6) Applying a bid discount of 5% to a VSLBE prime contractor during construction bid evaluation, and a bid discount of 5% for professional services contract bids where the VSLBE meets a 50% subcontractor goal.

The City seeks to increase the number of VSBLE’s, small and local businesses in Oakland to help them grow and hire more workers and in turn provide Oakland residents with good paying jobs. This additional discount of 5% is expected to increase the competitiveness of VSLBE businesses and support their growth into the next tier of

Small Businesses, increasing their revenue generation and ability to hire more Oakland workers.

- 7) Requiring that all developers engaged via a Development and Disposition Agreement submit a schedule of the projected award of construction and construction-related agreements, with all such agreements required to include the L/SLBE Program requirements.**

The city seeks to limit the use of waivers that a developer may file claiming their inability to satisfy the L/SLBE requirement because of a lack of available subcontractors. By requiring that Developers publish a schedule of projected contract awards to subcontractors, eligible L/SLBE businesses will be given ample notice of pending opportunities to engage with developers regarding upcoming opportunities. This is expected to increase L/SLBE participation. This change will also allow the City to better monitor L/SLBE compliance given the greater transparency of anticipated contract awards.

- 8) The City's Workplace and Employment Standards heretofore referred to as Contracts and Compliance office confirming that the needed goods or services from potential Cooperative Agreements are not offered by an L/SLBE and should agree in writing with the City department's findings before the City executes such a cooperative agreement.**

As captured in the 2017 Race and Gender Disparities Study,

"The City is permitted to participate in, sponsor, conduct, or administer a cooperative purchase with another governmental entity, governmental jurisdiction, or public agency without additional formal or competitive bidding procedures. For the City to enter a cooperative purchasing agreement, the City must require the same good or service with the same terms and conditions set forth in the contract that the vendor has established with the other governmental entity, and the governmental entity must have awarded the contract through the relevant competitive process. Cooperative purchasing agreements are subject to the City's purchasing guidelines to the extent feasible.

Table 10.16 from the Race and Gender Disparity Study Report (below) shows the utilization findings on all cooperative agreements awarded during the study period. The utilization analysis revealed that African American and Hispanic American owned businesses received less than 1% of the total dollars for agreements valued under \$50,000. Approximately 76% of the City's cooperative agreements are valued less than \$50,000. The value of most the City's cooperative agreement contracts demonstrates that most the contracts are small and require limited capacity to perform. Nevertheless, non-minority, male owned businesses received approximately 90% of the total dollars, and cooperative agreements valued under \$50,000."

**Table 10.16: Cooperative Agreements, All Contracts,
 July 1, 2011, to June 30, 2016**

Race	Number of Contracts	Percent of Contracts	Amount of Dollars	Percent of Dollars
African Americans	7	0.11%	\$212,979	0.27%
Asian Pacific Americans	272	4.33%	\$3,068,410	3.94%
Asian Indian Americans	1	0.02%	\$52,705	0.07%
Hispanic Americans	28	0.45%	\$415,392	0.53%
Native Americans	0	0.00%	\$0	0.00%
Caucasian Females	572	9.12%	\$4,376,695	5.62%
Non-minority Males	5,395	85.98%	\$69,692,436	89.56%
TOTAL	6,275	100.00%	\$77,818,616	100.00%
Race and Gender	Number of Contracts	Percent of Contracts	Amount of Dollars	Percent of Dollars
African American Females	4	0.06%	\$17,415	0.02%
African American Males	3	0.05%	\$195,564	0.25%
Asian Pacific American Females	107	1.71%	\$1,224,690	1.57%
Asian Pacific American Males	165	2.63%	\$1,843,720	2.37%
Asian Indian American Females	0	0.00%	\$0	0.00%
Asian Indian American Males	1	0.02%	\$52,705	0.07%
Hispanic American Females	4	0.06%	\$24,658	0.03%
Hispanic American Males	24	0.38%	\$390,734	0.50%
Native American Females	0	0.00%	\$0	0.00%
Native American Males	0	0.00%	\$0	0.00%
Caucasian Females	572	9.12%	\$4,376,695	5.62%
Non-minority Males	5,395	85.98%	\$69,692,436	89.56%
TOTAL	6,275	100.00%	\$77,818,616	100.00%
Minority and Women	Number of Contracts	Percent of Contracts	Amount of Dollars	Percent of Dollars
Minority Business Enterprises	308	4.91%	\$3,749,485	4.82%
Woman Business Enterprises	687	10.95%	\$5,643,457	7.25%
Minority and Woman Business Enterprises	880	14.02%	\$8,126,180	10.44%

Cooperative agreements are helpful to city staff because they expedite city’s contracting process, but they also allow for bypassing of L/SLBE program requirements. To allow for contracting efficiency without bypassing eligible, available, and willing L/SLBEs, this legislation proposes allowing eligible L/SLBEs to be directly-awarded the work, without requiring Council approval, if they are willing to comply with the same contract terms as in the Cooperative Agreement.

The goal of this program enhancement is to discourage the use of cooperative agreements by ensuring that goods or services sought are not offered by an L/SLBE before authoring the use of a cooperative agreement.

9) Increasing the preference percentage for Mentor-Protégé/ Joint Venture (JV) teams on construction and professional services contracts from 5% to 10%, and mentor protégé/ JV teams may not exceed two per project.

As captured in the 2017 Race and Gender Disparities Study,

“The City’s mentor-protégé program enables small local businesses to benefit directly from the experience and training of much larger, well-established firms. The program allows established firms to assist in developing the capacity and capability of small businesses located in

Oakland. The mentor-protégé program can support the growth of more SLBEs and thereby increase the availability to bid on City contracts as prime contractors. The mentor protégé program should be expanded to supplement the existing efforts and foster SLBE growth.”

The current mentor protégé program allows for a 5% preference for Mentor-Protégé teams on construction and professional services contracts. This legislation proposes that the preference incentive be increased to 10% to compensate mentors more adequately for their time and expertise, and it will also apply to Joint Ventures as well as mentor/protégé teams. The protégé’s certification status should be counted against any L/SLBE contract goals.

10) To establish a Local Business Advisory Taskforce that supports the Contracts & Compliance Division of DWES in meetings its L/SLBE prime contracts and subcontracts goals, including increasing access to contracting opportunities and advancing initiatives that impact L/SLBE participation

The Council acknowledges that it cannot effectively achieve its L/SLBE program goals without an ongoing and consistent advisory relationship with representatives of the businesses for whom the program is intended. The establishment of a formal advisory committee will ensure ongoing routine and formal engagement with these businesses and help the City better achieve its goals.

Per the guidance detailed in the 2017 Race & Gender Disparities Report:

“The city should establish a Business Advisory Council, appointed by the Mayor and the City Council to advocate for the L/SLBE Program... The Business Advisory Council membership and guidelines should be published on the DWES webpage. The Business Advisory Council should include 10, but not more than 15 members and a member should not serve more than 2 terms. Members should serve for staggered terms of three years

The city recognizes that without clear expectations and requirements, this incentive could be taken advantage of by a prime contractor who is not fully committed to coaching and mentoring the junior company. As such some additional requirements are also being proposed to ensure greater success of these relationships.

FISCAL AND STAFFING IMPACT

A critical factor to the success of this program is both the startup costs and ongoing operational costs of monitoring and compliance. According to the 2017 Race and Gender Disparities Study, “The existing staffing levels in the Contracts and Compliance Division should be augmented to increase the personnel in at least three functional areas: certification, data management, and contract compliance.” This legislation prioritizes the addition of two additional staff members proposed to support enhanced program monitoring and compliance. Similarly, when the City adds parking enforcement officers to the city budget, there is no anticipated net financial impact to the city of Oakland given the fact that the added positions are expected to be revenue neutral

given the anticipated fees and fines that will be levied and collected due to findings of non-compliance.

As recommended in the 2017 Race and Gender Disparities Study, we are proposing these additional roles which will include the following activities, critical to support program enhancement, monitoring, and enforcement.

1. Administrative Assistant II

The Administrative Assistant support the implementation of the contracts and compliance program including administering, monitoring, managing, and reporting for various aspects of the L/SLBE program This may include direct support for contractors and suppliers as well as behind-the-scenes activities including operating contracting and compliance systems.

2. Two Contract Compliance Officers

The Contract Compliance Officer should advise, monitor, and report on L/SLBE program, and individual contractor/supplier activity. When appropriate and necessary, the Compliance Officer shall also lead efforts to levy fees and fines related to L/SLBE and M/WBE contract compliance. This will include subcontractor pre-award goal fulfillment, commercially useful function review, certification site visits and desk audits, compliance investigations, post-award compliance audits and dispute resolution. In addition, the Compliance Officer should participate in business outreach activities to increase the applicant pool

The authorization for these positions is being presented to Council for adoption in the accompanying resolution.

POSITION	BASE	FRINGE	TOTAL COST
CONTRACT COMPLIANCE OFFICERS (2)	193,314.96	151,102.70	344,417.66
LBE/SLBE ADMINISTRATIVE ASSISTANT II	65,433.00	51,145.05	116,578.05
TOTALS	258,747.96	202,247.75	460,995.71

BUDGETED AT STEP 3

PUBLIC OUTREACH / INTEREST

In developing and refining this proposal, outreach was made in coordination with District 6 Councilmember Loren Taylor's office to several City of Oakland contractors and professional services providers, the Oakland Chambers of Commerce (including the Metropolitan Chamber, and the African American Chamber), representatives from Labor, and counterparts with the Port of Oakland who oversee and manage their diverse contractors and supplier program.

COORDINATION

This report was prepared in coordination between the City Attorney's Office, City Administrator's Office, Workplace & Employment Standards, Public Works, Transportation and various other departments.

SUSTAINABLE OPPORTUNITIES

Economic: By empowering Local businesses and providing them greater access to contracting opportunities with the City of Oakland, they will be able to increase revenue and increase their ability to reinvest into the local economy through job creation, increased contracting and subcontracting with other local businesses.

Environmental: No direct environmental impacts have been identified.

Social Equity: The proposed changes to the L/SLBE Program directly address barriers that are experienced by Minority and Women owned businesses as documented in the 2017 Race and Gender Disparities study – specifically, African American owned and Women owned businesses in Oakland. By removing these barriers, the proposed measures are expected to increase opportunities for equitable access to city contracting opportunities and reduce the disparities.

ACTION REQUESTED OF THE CITY COUNCIL

Approve An Ordinance Amending Ordinance No. 13101 C.M.S., Which Revised Oakland's Local And Small Local Business Enterprise (L/SLBE) Program Provisions, To (1) Change Local And Small Local Trucking Participation Requirements; And (2) Implement A New Sheltered Markets Rotational Program; And (3) Adjust The LBE Size Standard, Create A New Local Business Certification Category, And Adjust Associated Bid Discounts; And (4) Change The Definition Of "Substantial Presence," And "Local-Based Manufacturer", And "The Rule Of Three"; And (5) Limit Modifications To L/SLBE Schedules After Bid Opening; And (6) Establish Separate Program Provisions Specific To Disposition And Development Agreements (DDA) And All Other Similar Agreements; And (7) Apply City Policies To The Procurement Of Goods And Services By Way Of The Use Of Cooperative Agreements; And (8) Establish A Local Business Advisory Taskforce; And (9) Establish And Fund Additional Employee Positions Necessary To Implement The Adopted Program Enhancements (10) And other program enhancements to address race and gender disparities in local contracting and procurement.

For questions regarding this report, please contact Councilmember Loren Taylor's office at (510) 238-7006.

Respectfully submitted,



LOREN M. TAYLOR
Councilmember, District 6
Chair, Life Enrichment Committee
Member, Community & Economic Development
AND Public Safety Committees

Attachment (1): Attachment A to this report is the non-redlined version of Oakland's Local and Small Local Business Enterprise Program manual, for discussion purposes, which incorporates the changes proposed to the Ordinance as described herein. (The redlined version is Exhibit A to the legislation)