

*Michael J. Smith*

City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. 88483 C.M.S.

INTRODUCED BY COUNCILMEMBER LOREN TAYLOR

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**RESOLUTION DIRECTING THE CITY ADMINISTRATOR TO REPORT BACK TO COUNCIL BY APRIL 2021 REGARDING (1) THE PORT OF OAKLAND'S (PORT) INTEREST IN AND FEASIBILITY OF PARTNERING WITH THE CITY TO ESTABLISH AND OPERATE AN OWNER-CONTROLLED INSURANCE PROGRAM FOR CONSTRUCTION PROJECTS, OR FOR THE CITY TO DO SO INDIVIDUALLY; (2) THE CITY'S APPLICATION OF THE LOCAL/SMALL LOCAL BUSINESS ENTERPRISE (L/SLBE) PROGRAM TO ON-CALL CONTRACTS AND COOPERATIVE AGREEMENTS; (3) EXPANSION OF THE CITY'S CONSTRUCTION PREFERRED SMALL LOCAL BUSINESS PROGRAM TO THE PURCHASE OF ALL PROFESSIONAL SERVICES; (4) CREATION OF A SMALL AND/OR VERY SMALL LOCAL BUSINESS ENTERPRISE (SLBE/VSLBE) SET ASIDE PROGRAM; (5) ESTABLISHMENT OF A BONDING AND FINANCING PROGRAM FOR SLBES; (6) CREATION OF A CREDIT INCENTIVE PROGRAM FOR LBE/SLBE OWNERS WHO GRADUATED FROM A HIGH SCHOOL IN OAKLAND; AND (7) ANY OTHER PROGRAM ENHANCEMENTS TO ADDRESS RACE AND GENDER DISPARITIES IN LOCAL CONTRACTING AND PROCUREMENT IDENTIFIED BY COUNCIL**

**WHEREAS**, The City of Oakland faces a significant economic crisis as a result of the COVID-19 pandemic which has forced many Oakland businesses to close, threatens the existence of many others, and has resulted in significant loss of jobs and high unemployment in Oakland; and

**WHEREAS**, more than 80% of Oakland businesses are small businesses, and national data establishes the small business market as the greatest source of employment, particularly in urban areas such as Oakland; and

**WHEREAS**, The Oakland City Council understands there is a direct correlation between high rates of unemployment and increased crime rates, and as such is desirous of finding ways to create contracting opportunities for Oakland businesses and employment opportunities for Oakland residents; and

**WHEREAS**, federal and state contracting laws support the development of small businesses, mandate that a certain portion of most public works projects be given to small contractors for public benefit, and aim to increase the talent and contract pool in bidding for government contracts; and

**WHEREAS**, enhancements of Oakland's local business enterprise purchasing programs may increase the number of firms with primary business offices in Oakland by encouraging firms to move to Oakland and creating opportunities for the formation of new Oakland-based firms; and

**WHEREAS**, federal and local laws mandate that contractors post surety bonds, often to the full value of the contract which is intended to protect taxpayer dollars and infrastructure against substandard work, but is often cost-prohibitive for smaller contracting firms, limiting their access to government contracting opportunities; and

**WHEREAS**, large businesses and government agencies have the personnel and expertise required to comply with complicated federally and locally mandated bonding requirements, but small businesses often do not have the same resources and are thus often excluded from participation; and

**WHEREAS**, bonding assistance or subsidies are a potential solution to the problem of the bonding requirement that limits access for most small businesses, and one such program is an Owner-Controlled Insurance Program (OCIP), which is a centrally procured and managed insurance and risk control program that can be used by the prime contractor and its subcontractors for a single City-funded construction or professional services project, or for a series of projects; and

**WHEREAS**, The City of Oakland and the Port of Oakland (Port) have a shared interest in Oakland's economic prosperity and the success of Oakland small businesses, and an OCIP partnership between the City and the Port regarding construction and professional services projects could benefit the Port, the City of Oakland, and Oakland small businesses; and

**WHEREAS**, the cities of San Francisco and Los Angeles both have OCIPs and the performance of those programs could inform Oakland's path forward in implementing an OCIP, with or without the Port; and

**WHEREAS**, a possible OCIP may include transit, transportation, airports, ports, and central city government, and will impact many external and internal City stakeholders; and

**WHEREAS**, the Council seeks to consider improvements that may be needed for the City's on-call construction contracts and cooperative agreements to increase the number of small business introduced into the pipeline of public works on-call contracts that would benefit both small businesses, their employees and the City; and

**WHEREAS**, expanding the City's Mandatory Preferred Small Local Business Program (under Oakland Municipal Code (OMC) Section 2.04.045(B)) ("MPSLB") for construction-related professional services to the purchase of all professional services, could increase the number of small businesses introduced into the pipeline of professional services contracts and, therefore, benefit small businesses, their employees and the City; and

**WHEREAS**, program improvements such as the development of an OCIP; enhancements to the on-call contracts procurement process and the L/SLBE program; and expanding the MPSLB program to the purchase of all professional services requires thorough planning, analysis, and stakeholder engagement; now, therefore, be it

**RESOLVED:** That the Oakland City Council directs the City Administrator to explore and report back to Council by April 2021 on the feasibility of implementing the following measures to improve the L/SLBE Program so that the City of Oakland better delivers on its commitment to eliminating race and gender disparities in City purchasing for procurement of goods and materials, construction labor and materials and professional services.

Programs and measures to be explored, evaluated and reported back on include:

1. Establishing and operating an OCIP either independently or in partnership with the Port of Oakland for construction and professional services projects.
2. Application of the L/SLBE Program to the City's on-call contracts and cooperative agreements and improvements that would increase SLBE participation.
3. Expanding the construction MPSLB Program (OMC Section 2.04.045(B)) to the purchase of all professional services.
4. Establishing a Small and/or Very Small Local Business Enterprise (SLBE/VSLBE) set aside program with the goal of ensuring greater access for SLBEs and VSLBEs as prime contractors.
5. Establishing an SLBE bonding and financing program.
6. Establishing a credit incentive for procurement, construction and professional services contracts with LBE/VSLBE owners who graduated from a high school in Oakland ("Local Homegrown Credit").

IN COUNCIL, OAKLAND, CALIFORNIA,

JAN 12 2021

PASSED BY THE FOLLOWING VOTE:

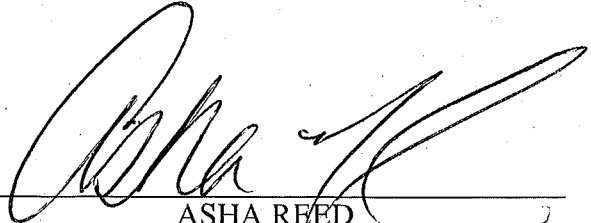
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS — 8

NOES — 0

ABSENT — 0

ABSTENTION — 0

ATTEST:

  
ASHA REED  
Acting City Clerk and Clerk of the  
Council of the City of Oakland, California