


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER LOREN TAYLOR

RESOLUTION EXPRESSING THE CITY COUNCIL'S COMMITMENT TO CREATING AND FUNDING IN THE ADOPTED 2021-2023 BIENNIAL BUDGET TWO CONTRACT COMPLIANCE OFFICER POSITIONS AND ONE ADMINISTRATIVE ASSISTANT II POSITION IN THE DEPARTMENT OF WORKPLACE AND EMPLOYMENT STANDARDS TO ENSURE A MORE EFFECTIVE AND EFFICIENT LOCAL/SMALL LOCAL BUSINESS ENTERPRISE (L/SLBE) PROGRAM INCLUDING IMPLEMENTATION OF ENHANCEMENTS DETAILED IN ORDINANCE 13640 C.M.S.

WHEREAS, the Oakland City Council recognizes the value, need, and benefits of supporting local and small businesses in Oakland and desires to eliminate disparities in City contracting for Black Indigenous and People of Color (BIPOC) and Women owned businesses; and

WHEREAS, the Oakland City Council recognizes that historic and systematic disparities do not simply disappear and require proactive and data driven policies that are consistently enforced; and

WHEREAS, the City Council found that changes to the L/SLBE program were necessary to improve the its efficiency, effectiveness, and to better serve Oakland residents by addressing contracting disparities that disproportionately affect BIPOC and Women business owners; and

WHEREAS, 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 with a stated purpose of stimulating economic development in the City of Oakland with a particular emphasis on providing economic opportunity for Oakland residents and businesses that have been especially economically disadvantaged; and

WHEREAS, 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; and

WHEREAS, on February 16, 2021, the City Council adopted Ordinance 13640 amending Ordinance No. 13101 C.M.S., which revised Oakland's Local and Small Local Business Enterprise (L/SLBE) Program provisions, to change local and small local trucking participation requirements, add new local business categories and certification criteria, change the definition of "substantial presence," define "local-based manufacturer, add and change bid discounts, limit modifications to L/SLBE schedules after bid opening, and provisions related to disposition and development agreements and cooperative agreements, and update the list of applicable schedule; and

WHEREAS, the 2017 Race and Gender Disparities Study found that Black-owned and Women-owned local Oakland businesses continue to face significant disparities that have continued to persist since the creation of the L/SLBE program in 2001 and the report identified as one of its recommendations the need for consistent monitoring and enforcement of the City's L/SLBE program to ensure compliance with the L/SLBE program; and

WHEREAS, overwhelming evidence continues to show significant barriers that limit our local small businesses from accessing contracts and procurement opportunities with the City, despite the existence of Oakland's Local and Small Local Business Enterprise Program. By focusing on specific barriers that continue to prevent local and small local businesses from accessing contracting and supplier opportunities, we will increase local job opportunities, help stabilize local businesses, and improve racial equity with respect to financial and economic outcomes in the City of Oakland; and

WHEREAS, the Council finds that the L/SLBE program should include continuous program improvement mechanisms to ensure improved effectiveness and improved outcomes when it comes to race and gender disparities as well as overall Oakland economic development; and

WHEREAS, implementation of the L/SLBE program and imposition of penalties for violations of the policy will deter activities inconsistent with the program that perpetuate disparities and prevent the City from reaching its goals of equity in City contracting; and

WHEREAS, City contractors have reported significant delays in processing certification applications and those delays impede the growth of local and small businesses in Oakland; and

WHEREAS, the City has a policy to ensure compliance, investigate suspected violations and impose fines for violations of the City's L/SLBE program; and

WHEREAS, the fines accrued due to the violations of the programs can be used to fund additional staff to conduct investigations and penalties and fines for violations can lead to increased revenues to the City's budget; and

WHEREAS, 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.”

WHEREAS, the funding of two Contract Compliance Officer positions in the adopted 2021-2023 biennial budget in the Department of Workplace and Employment Standards is necessary to effectively enforce the recent changes made by the Council to the L/SLBE program and the ongoing operational costs of monitoring and compliance; and

WHEREAS, according to the 2017 Race and Gender Disparity study 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; and

WHEREAS, an additional Administrative Assistant II position in the adopted 2021-2023 biennial budget in the Department of Workplace and Enforcement Standards will help to timely process certification applications and maintain systems to track critical data that can lead to program improvements; and

WHEREAS, according to the 2017 Race and Gender Disparity study the Administrative Assistant II position should 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; and

WHEREAS, the cost of two contract compliance offers is estimated at base cost \$193,314.96 and fringe cost of \$151,102.70 for a total cost of \$344,417.66 for FY 2021-2022, and the net additional revenues resulting from their work would help reduce the City’s budget deficit;

WHEREAS, the cost of one Administrative Assistant II position is estimated at base cost \$65,433.00 and fringe cost of \$51,145.05 for a total cost of \$116,578.05 FY 2021-2022; and now, therefore, be it

RESOLVED, That the City Council hereby expresses its commitment to creating and funding in the adopted 2021-2023 biennial budget two Contract Compliance Officer positions and one Administrative Assistant II position in the Department of Workplace and Employment Standards to ensure a more effective and efficient Local/Small Local Business Enterprise (L/SLBE) program including implementation of enhancements detailed in Ordinance 13640 C.M.S.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

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