

APPROVED AS TO FORM AND LEGALITY


Celso Ortiz (Sep 4, 2025, 16:14:07 PDT)

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

**RESOLUTION TO ENSURE COMPLIANCE WITH THE SEWER
CONSENT DECREE BY WAIVING ALL LOCAL/SMALL LOCAL
BUSINESS ENTERPRISE PROGRAM REQUIREMENTS (ORDINANCE
13101, ORDINANCE 13640 AS AMENDED), EXCEPT TO CONTINUE
TO PROVIDE BID DISCOUNTS TO LOCAL/SMALL LOCAL
BUSINESSES**

WHEREAS, the City of Oakland (City) is committed to maintain full compliance with the Sewer Consent Decree; and

WHEREAS, the Sewer Consent Decree gives the Defendants (East Bay Municipal Utility District (EBMUD) and the seven Satellite Agencies to include the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont, and Stege Sanitary District) until 2036 to repair and replace sewer mains, reduce the amount of inflow and infiltration (I/I) and reduce discharges into San Francisco Bay during heavy storms and reduce sanitary sewer overflows; and

WHEREAS, by the end of the Consent Decree, December 31, 2035, the City shall have completed 264 miles of sewer main rehabilitation and associated maintenance structures; and

WHEREAS, failure to meet the annual requirements for sewer main rehabilitation may result in stipulated penalties; and

WHEREAS, the Consent Decree requires the City to rehabilitate thirteen miles of sanitary sewer mains a year; and

WHEREAS, the City lacks the number of small local business and local businesses that can perform the annual mandate of thirteen miles of sanitary sewer rehabilitation; and

WHEREAS, 24 of the 29 sewer solicitations from July 2023 to May 2025 received either 0, 1, or 2 bids; and

WHEREAS, on average, those other cities receive 5.7 bids per sewer construction solicitation versus Oakland's two bids per sewer solicitation; and

WHEREAS, the average number of contractors that bid in each City other than Oakland is 12; and

WHEREAS, the discrepancy between other cities and Oakland is attributable to the Local and Small Local Business Enterprise (L/SLBE) program's requirements; and

WHEREAS, none of these other cities had S/LBE requirements as high as Oakland's; and

WHEREAS, waiving all S/LBE participation requirements will ensure the City has a robust pool of contractors both local and non-local that can perform the annual amount of sanitary sewer construction required for consent decree compliance; and

WHEREAS, with more contractors competing for the work, the City will receive more bids, obtain better bid prices due to increased competition between contractors, and expand the number of contractors who can deliver sewer main mileage; and

WHEREAS, without a more robust pool of contractors, the City will continue to experience few (or no) bids per project and significant delays attributable to the S/LBE program; and

WHEREAS, the Council waive all L/SLBE requirements for sanitary sewer construction contracts; and

WHEREAS, the proposed resolution continues to support local businesses; and

WHEREAS, the resolution continues already-established bid discounts to certified LBEs and SLBEs that perform sewer construction; therefore, be it

RESOLVED: That for the reasons stated above and to ensure compliance with the Sewer Consent Decree, that the City Council Authorize the City Administrator, or designee, waive all Local/Small Local Business Enterprise Program Requirements (Ordinance 13101, Ordinance 13640 As Amended) except to provide bid discounts to local/small local businesses; and be it

FURTHER RESOLVED: Sanitary sewer construction contracts will use local contractors from the Mandatory Preferred Small Local Business (MPSLB) contractor pool for sewer repairs less than \$250,000; and be it

FURTHER RESOLVED: That the waiver will sunset upon completion of the Sewer Consent Decree.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the City
of Oakland, California