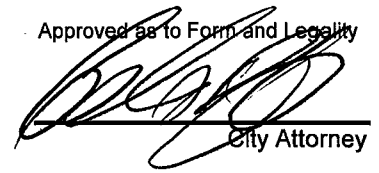


FILED
OFFICE OF THE CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION No. **86754** C.M.S.
2017 MAY 12 AM 9:00

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A CONTRACT WITH MASON TILLMAN ASSOCIATES LTD, IN AN AMOUNT NOT-TO-EXCEED FOUR HUNDRED NINETY THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$490,875.00) TO COMPLETE THE RACE AND GENDER DISPARITY STUDY FOR THE CITY OF OAKLAND

WHEREAS, the City of Oakland Charter was amended in 1996 adding Section 808(b) which requires the City to conduct “a race and gender disparity evaluation to determine if the City has been an active or passive participant in actual, identifiable discrimination within . . .” Oakland’s marketplace; and

WHEREAS, the City seeks to ensure equal opportunity in the marketplace and to ensure that as market participants, the City and Agency are not actively or passively discriminating against minority-owned business enterprises (MBE) or women-owned business enterprises (WBE) which is consistent with the mandate of City Charter Section 808(b); and

WHEREAS, a detailed request for proposals (RFP) was prepared and mailed to firms across the country and a solicitation advertisement was also placed in the East Bay Times/Oakland Tribune, El Mondo, San Francisco Chronicle, Oakland Post; and the City of Oakland’s iSupplier.

WHEREAS, interested firms were invited to participate in a voluntary pre-proposal conference the purpose of which was to explain the City’s social equity policies and answer technical questions the consultants had with regard to the proposal; and

WHEREAS, two firms submitted proposals and one of those firms (Mason Tillman Associates, LTD) met or exceeded the City’s minimum 50% local and small local business participation requirement and the other (Miller³ Consulting, Inc.) did not; and

WHEREAS, Mason Tillman & Associates was ranked as number one by the independent consultant (J. Rita McNeil Danish), and Miller³ Consulting, Inc. was ranked second; and

WHEREAS, based on the ranking by the independent consultant, Mason Tillman & Associates LTD, (a) ranked first achieving a score of 108; (b) performed the City’s previous Disparity Study; (c) Is a local certified firm and surpassed the 50% L/SLBE participation requirement with 98.47% proposed participation; and (d) is familiar with the City’s internal data systems, and Oakland business and geographic markets; and

WHEREAS, the City of Oakland is a key player in the Oakland economy through its multi-million dollar purchasing and contracting activities, grants and informal procurements; and

WHEREAS, the City seeks to ensure fair and equitable opportunities for the Oakland market and to ensure that the City is not actively or passively discriminating against all businesses in general and in particular, against small and emerging businesses and minority and women-owned business enterprises (M/WBE); and

WHEREAS, the scope of the disparity study includes a review of purchase orders, contracts and grants awarded to for-profit and not-for-profit prime vendors/contractors/consultants/grantees and sub – vendors/contractors/consultants/grantees within the Oakland geographic market; and

WHEREAS, the consultant will view the City of Oakland’s procurement and disbursement activities within the context of four major primary categories:

1. Construction Services (i.e. renovation of existing or building of new public structures, repair of streets and roads);
2. Commodities (i.e. unit priced items, products, equipment and supplies);
3. Professional Services (i.e. consulting, architecture, engineering);
4. Grants (i.e. federal and state funded awards and are typically for non-construction services; and

WHEREAS, the consultant will provide specific recommendations relative to spending patterns using the following dollar ranges: a) Under \$5,000.00; b) \$5,000.00 - \$25,000.00; c) \$25,001-\$99,999.00; d) \$100,000.00 to \$250,000 and e) \$250,000 and above; and

WHEREAS, the length of the study shall cover the last five (5) most recent fiscal years as follows: 2011-2012; 2012-2013; 2013-2014; 2014-2015 and 2015-2016; and

WHEREAS, the consultant will be required to:

1. Identify the relevant geographic market as a subset of the Alameda County market area. The City is most interested in first evaluating the Oakland geographic market in light of local goals and then the geographic market.
2. Identify the number of ready, willing and able businesses including Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBEs) and Women–Owned Business Enterprises (WBE) and non-minority/women owned businesses.
3. Recommend the most appropriate definition of “disadvantaged business” in line with a possible race specific program, to the extent defensible.
 - a. The definition must take into consideration but need not be limited to: ethnicity, gender, location, number of years in business, personal net worth, size in terms of gross receipts, and size in terms of number of employees.
4. Collect valid defensible anecdotal data critical to shaping effective remedies that conform to current case law.
5. Conduct a “But for Analysis” to include: (a) historical context analysis and an (b) oral history analysis, and an (c) analysis of anecdotal data to determine patterns and/or practices (if any) of discrimination against non-minorities, minorities and women owned businesses.

6. Evaluate City of Oakland's social justice policies, contracting procedures, and procurement practices of all City departments.
7. Consider narrowly tailored race and gender specific remedies as well as the impact of the City's current race and gender neutral strategies.
8. Build a strong defensible case to support findings in the event of legal challenges to include but may not be limited to: (a) explaining study findings and methodology to the City Council and Council committees as requested; (b) testify in any litigation relating to the study or otherwise assist the City Attorney in any litigation related to the consultant's work on the project; and (c) assist in managing the presentation of public testimony relative to underutilization; and

WHEREAS, the City Council finds and determines that the services provided under the agreement authorized hereunder are of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service; and

WHEREAS, funding was previously allocated for the disparity study, and \$490,875 is available for this professional services contract in the General Purpose Fund (1010), Contract Compliance Organization (02611), Disparity Study Project (1001207), DCP Administration Program (IP70); now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to negotiate and enter into a contract for the Race and Gender Disparity Study for the City of Oakland with Mason Tillman Associates, Ltd. covering the last five (5) most recent fiscal years (2011-2012; 2012-2013; 2013-2014; 2014-2015 and 2015-2016), in an amount not-to-exceed four hundred ninety thousand eight hundred seventy-five dollars (\$490,875.00); and, be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney's Office for form and legality and a copy placed on file in the office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 06 2017

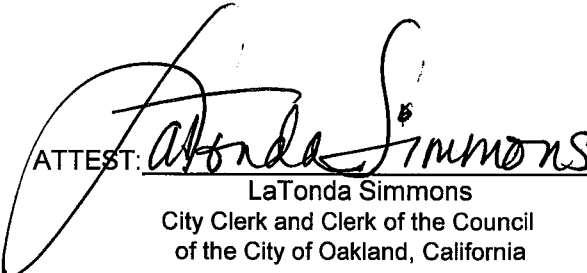
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 
 LaTonda Simmons
 City Clerk and Clerk of the Council
 of the City of Oakland, California