



CONSENT CALENDAR
October 26, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett (Author) and Councilmember Harrison (Co-Sponsor)

Subject: Presentation Request: Study to Achieve Equity in City Contracting - "Berkeley Inclusion in Opportunity Index"

RECOMMENDATION:

Request for Mason Tillman Associates Ltd (MTA) to present their findings and recommendations from the "Berkeley Inclusion in Opportunity Index" study at the November 9th, 2021 City Council meeting.

The presentation should include an analysis of the City's use of local, small, emerging, and diverse enterprises. The study focuses on enterprises experiencing barriers to access in obtaining City contracts in construction, architecture, engineering, professional services, goods, and other services.

BACKGROUND:

The City of Berkeley and its residents have a longstanding commitment to diversity and advancing the development of local businesses. Part of this commitment is to ensure that the City's procurement activities allow for contracting opportunities to be accessible to the entire local business community. The purpose of a Barriers and Availability Study would therefore be to examine the City's procurement activities and identify disparities in the awarding of contracts affecting local, small, emerging business enterprises and other enterprises with barriers to access. To the extent that disparities exist, the City of Berkeley should undertake equity oriented remedies in its city contracting practices.

Alameda County and the City of Oakland have both performed Availability Studies, which allows these municipal entities to consider additional factors when awarding contracts and engage in more socially responsible contracting. The City of Berkeley must do the same to uphold its commitment to diversity as well.

On January 24, 2017, Berkeley City Council approved the "Berkeley Inclusion in Opportunity Index" . This Barriers and Availability Study was intended to critically examine the City's procurement activities.

On May 28th, 2019, the Council approved the 2019-2020 budget and allocated \$200,000 to fund the above-mentioned "Berkeley Inclusion in Opportunity Index" Barriers and Availability Study. Councilmember Bartlett worked with City staff to issue a Request for Proposal (RFP) to identify a qualified firm to perform a Barriers and Availability Study. The results ranked Mason Tillman Associates Ltd as the best firm to conduct this study as they are recognized as national leaders in the field.

By conducting a Barriers and Availability Study to identify discrimination in municipal contracting, the City will be able to identify specific disparities in the awarding of contracts and subsequently create a series of reparative measures.

More background on the “Berkeley Inclusion in Opportunity Index” is available in the attachments that include previous items.

CURRENT SITUATION

The study conducted by Mason Tillman Associates Ltd was completed at the end of September.

FISCAL IMPACTS OF RECOMMENDATION

Staff & Council Time

RATIONALE FOR RECOMMENDATION

Because the validity of scientific results is conditional based on time, it is critical that the study results be presented to Berkeley City Council during the month of October or November.

CONTACT PERSON

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ATTACHMENT

1. [2017- Budget Referral: “Berkeley Inclusion in Opportunity Index” - Request Availability Study to Achieve Equity in City Contracting](#)
2. [2019 - Budget Referral: “Berkeley Inclusion in Opportunity Index” - Funding Firm to Perform Availability Study to Achieve Equity in City Contracting](#)



Councilmember Ben Bartlett
District 3

CONSENT CALENDAR
January 24, 2017

To: Honorable Mayor and Members of the City Council

From: Councilmember Ben Bartlett & Councilmember Kriss Worthington & Councilmember Cheryl Davila

Subject: Budget Referral: "Berkeley Inclusion in Opportunity Index" - Request Availability Study to Achieve Equity in City Contracting

RECOMMENDATION

Refer to the 2016-2017 budget an allocation to perform an Availability Study to analyze the City's use of local, small, emerging enterprises and other enterprises with barriers to access in City construction, architecture, engineering, professional services, goods and other services contracts.

FINANCIAL IMPLICATIONS

Minimal costs and staff time.

BACKGROUND

The City of Berkeley and its residents have a longstanding commitment to diversity and to advancing the development of local businesses. Part of this commitment is to ensure that the City's procurement activities allow for contracting opportunities to be accessible to the entire local business community.

The purpose of an Availability Study would therefore be to examine the City's procurement activities and identify disparities in the awarding of contracts affecting local, small, emerging business enterprises and other enterprises with barriers to access. To the extent that disparities in the awarding of contracts exist, the City of Berkeley should undertake equity oriented remedies in its contracting practices. Alameda County and the City of Oakland have both performed Availability Studies, which allows these municipal entities to consider additional factors when awarding contracts and engage in more socially responsible contracting.

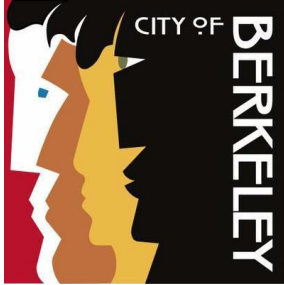
ENVIRONMENTAL SUSTAINABILITY

This proposal is aligned with the City's goal for Environmental Sustainability.

CONTACT PERSON

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CONSENT CALENDAR
 May 28th, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett and Cheryl Davila
 Subject: Budget Referral: "Berkeley Inclusion in Opportunity Index" - Funding Firm to Perform Availability Study to Achieve Equity in City Contracting

RECOMMENDATION

That the Council refer to the 2019-2020 budget and allocate \$200,000 to fund Mason Tillman Associates Ltd (MTA) to perform an Availability Study to analyze the City's use of local, small, emerging enterprises and other enterprises with barriers to access in City construction, architecture, engineering, professional services, goods, and other services contracts.

CURRENT SITUATION

On January 24, 2017 Councilmembers Bartlett and Davila, along with former Councilmember Worthington, referred to the 2016-2017 budget and allocation to perform an Availability Study to analyze the City's use of local, small, emerging enterprises and other enterprises with barriers to access in City construction, architecture, engineering, professional services, goods and other services contracts.

Recommendations presented on June 13, 2017 included \$100,000 in FY 2018 for the Berkeley Inclusion in Opportunity Index, also referred to as the Availability Study.

On June 24, 2017, a FY 2018 and FY 2019 revised budget report was submitted to the City Council as agenda Item #47 by the Budget Manager. The report was revised to reflect the Mayor's Supplemental Budget.

Staff prepared Request for Proposal (RFP), Specification No. 18-11193-C, Availability Study for Affirmative Action in City Contracting which was released to the public in the spring of 2018. The RFP's intent was to identify and contract with a firm to conduct disparity and utilization analyses to assess the City's use of local, small, emerging, minority and women business enterprises in City construction, architecture, engineering, professional services, goods and other services contracts. Additionally, remediation recommendations to address any identified utilization gaps were requested as part of the scope of services. Specific outreach was made to 7 firms that participated in a similar request for proposal process with the City of Oakland. The RFP was posted on

the City's website and at the kiosk in front of Old City Hall. Six (6) firms submitted proposals in response to the RFP.

A panel comprised of City staff was convened to evaluate each proposal, conduct a rating and ranking process and identify the top ranked proposal. At the conclusion of the rating and ranking process the proposal submitted by Mason Tillman Associates Ltd (MTA) was deemed to provide the best overall value to the City, price and other factors considered. Particular strengths of the MTA proposal included:

- Extensive experience performing this type of work for states, cities and special districts and authorities, including the Cities of Oakland, Richmond and San Jose, San Francisco Bay Area Rapid Transit District, California High Speed Rail Authority, and Alameda County
- Clearly defined approach and proposed project plan with an estimated duration of 8 months from start to finish
- A detailing of data analysis tools and processes to be used, and
- Analysis of subcontractor awards.

BACKGROUND

The City of Berkeley and its residents have a longstanding commitment to diversity and to advancing the development of local businesses. Part of this commitment is to ensure that the City's procurement activities allow for contracting opportunities to be accessible to the entire local business community.

The purpose of an Availability Study would therefore be to examine the City's procurement activities and identify disparities in the awarding of contracts affecting local, small, emerging business enterprises and other enterprises with barriers to access. To the extent that disparities in the awarding of contracts exist, the City of Berkeley should undertake equity oriented remedies in its contracting practices. Alameda County and the City of Oakland have both performed Availability Studies, which allows these municipal entities to consider additional factors when awarding contracts and engage in more socially responsible contracting.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

To the extent disparities in the awarding of contracts exist, the City of Berkeley is barred by Proposition 209 from undertaking race conscious, gender-conscious and other affirmative action-related remedies without first conducting an Availability Study to identify discrimination. Such remedies may not be undertaken based on broad notions of equity or general allegations of discrimination, however, they are permitted if the City identifies specific disparities in the awarding of contracts.

Alameda County and the City of Oakland have both performed an Availability Study, which therefore allows them to consider additional factors and do more socially responsible contracting. The City of Berkeley must do the same to uphold its commitment to diversity.

OUTREACH OVERVIEW AND RESULTS

Councilmember Bartlett has reached out to City staff to conduct an RFP to determine which firm would be the most qualified to perform an Availability Study for affirmative action in city contracting. The results have ranked Mason Tillman Associates Ltd as the best firm to conduct the study for the City of Berkeley.

RATIONALE FOR RECOMMENDATION

The Availability Study will allow for contracting opportunities to be accessible to the entire local business community while empowering municipal entities to engage in more socially responsible contracting.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

To be determined.

FISCAL IMPACTS OF RECOMMENDATION

If passed, the financial resources necessary for funding the firm to conduct the Availability Study will be allocated from the FY2020 and FY2021 budget.

ENVIRONMENTAL SUSTAINABILITY

This proposal is aligned with the City's goal for Environmental Sustainability.

OUTCOMES AND EVALUATION

It is expected that the Council will maintain their longstanding commitment to diversity and to advancing the development of local businesses by referring to the 2019-2020 budget and allocate \$200,000 to fund a firm to conduct the Availability Study.

CONTACT PERSON

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https://www.cityofberkeley.info/uploadedFiles/Council_3/Level_3_-_General/BINDEX.pdf

City manager results: file:///C:/Users/bbartlett/Downloads/2019-05-14%20Item%2059%20Results%20of%20RFP%20for%20Availability%20Study.pdf

