

IMPACT STATEMENT

Legislation title: Adopt Code and administration rules for the Community Opportunities and Enhancements Program (Ordinance; add Code Chapter 5.35 and Portland Policy Document ADM 1.25)

Contact name: Lester Spitler
Contact phone: 503-823-8397
Presenter name: Tom Rinehart

Purpose of proposed legislation and background information:

The City of Portland (City) recognizes that historical disparities exist in the construction industry which has prevented equity in construction contracting opportunities for Disadvantaged, Minority-owned, Women-owned, Emerging Small Businesses and Service-Disabled Veteran-owned Business Enterprises (D/M/W/ESB/SDVBE) as well as diversity in the workforce in the construction trades.

The City has a responsibility to ensure public dollars spent benefit the community the City serves by optimizing diverse community participation in contracting. The City has committed to increasing this diversity and equity in contracting and has undertaken the development of the Community Opportunities and Enhancements Program (COEP or Program), authorized by Resolution 37331, passed by the Council on November 8, 2017 as well as the Community Equity and Inclusion Plan (CEIP) and Community Benefits Agreement (CBA), authorized by Resolution 37329, also passed by the Council on November 8, 2017. Authorization to develop the COEP and implement the CEIP and CBA as contractual agreements are key strategies for helping to ensure that the City achieves greater diversity in the workforce on City construction projects and more participation by D/M/W/ESB/SDVBE firms.

During development of COEP, OMF and the Office of Equity and Human Rights (OEHR) were directed to partner with Prosper Portland (Prosper) to pilot the initial administration of the Program. The first operating Memorandum of Understanding (MOU), between Prosper and the City was signed April 5th, 2019, and the subsequent IGA to implement phase one of the COEP was approved January 29, 2020. The Ordinance approved by council January 29, 2020 authorized the Chief Administrative Officer to continue working with the infrastructure bureaus who execute public improvement construction contracts to establish Portland City Code and Administrative Rules to further outline the details of the COEP including how the 1% of hard construction costs is to be collected from the infrastructure bureaus by OMF, how those funds will be administered, and how the Program will be implemented.

The purpose of this legislation is for Council to adopt the Code and Administrative Rules, which would create revenue from the infrastructure bureaus this fiscal year for

COEP.

Financial and budgetary impacts:

The Office of Management and Finance has a request in the FY 2020-21 Fall BMP for the General Fund resource associated with this ordinance. The Fall BMP request is a request for One-Time General Fund Discretionary resources on behalf of PBOT and Parks, \$173,345 and \$99,132 respectively. OMF also submitted as part of the FY 2020-21 Fall BMP a request for a Current Appropriation Level (CAL) adjustment for the PBOT and Parks appropriation to be included in FY 2021-22 CAL Targets.

The Interagency Revenue from BES, Water, Facilities and potentially other bureaus is currently indeterminate. OMF will work with bureaus to determine the estimated COEP charge and submit a request matching bureau estimates in the Spring BMP.

Community impacts and community involvement:

The establishment of a reliable source of ongoing funding for community organizations and entities to support long-term sustainable solutions to increase and strengthen D/M/W/ESB/SDVBE firms and to diversify and support the workforce that will be working on current and future City construction projects is intended to generate better equity outcomes on City construction projects.

The community has been involved with this work for decades. In 2009, a Disparity Study showed statistically significant underutilization of prime contractors owned by people of color and women on City construction projects. In 2011, the Metropolitan Alliance for Workforce Equity (MAWE), a coalition of community, labor, business and equity partners, formed. MAWE developed the Model Community Benefits Agreement (CBA) template to create a framework to increase contracting and workforce opportunities for historically underserved community members. In 2012, City Council approved the draft Model CBA for consideration on construction projects over \$15 million and piloted the Model CBA on two Portland Water Bureau projects: the Kelly Butte Reservoir and Interstate Maintenance Facility projects. In 2015, City Council directed the allocation of 1% of the hard construction costs from the Portland Building Reconstruction project for community opportunities and enhancements. The City also allocated funds for community opportunities and enhancements on the Washington Park Reservoir and the Yamhill Garage projects as part of their Community Benefits Plans in 2016. Model CBA pilot projects were completed, and the Model CBA was assessed. While generally successful, City and industry stakeholders agreed that making funding available to support equity efforts on a project-by-project basis was inefficient for City bureaus distributing funds and for community organizations applying for multiple grants and reporting outcomes to multiple bureaus.

Finally, in 2017, City Council approved resolutions requiring the use of a Community Equity and Inclusion Plan (CEIP) for projects \$10-25 million and required CBAs for

projects over \$25 million. To address the inefficiencies of project-by-project equity efforts, they directed staff to create the Community Opportunities and Enhancements Program and fund by collecting 1% from all City-owned construction projects.

100% Renewable Goal: This program does not influence that goal.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

| Fund | Fund Center | Commitment Item | Functional Area | Funded Program | Grant | Sponsored Program | Amount |
|------|-------------|-----------------|-----------------|----------------|-------|-------------------|--------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Amendment to Item 872 – 9:45 AM Time Certain

The amendment strikes the last sentences of sections 5.1.4 and 5.1.5 in Exhibit B – Admin Rule 1.25, as follows:

5.1.4. The Fixed Rate Methodology sets the COEP Fee in the first full fiscal year of the program for bureaus as 1% of the original contract value of historic Public Improvement Contracts as defined in Exhibit 1. ~~For the General Fund funded component of these COEP Fees, the City Budget Office will establish a Current Appropriation Level (CAL) target funded by General Fund discretionary revenue following Council's adoption of the COEP Administrative Rules.~~

5.1.5. In the second fiscal year of the program and annually thereafter, the COEP Fees calculated under the Fixed Rate Methodology will follow the City Economist's methodology for determining CAL targets. This applies to COEP Fees funded by both General Fund and non-General Fund sources. ~~These COEP Fee targets will also be subject to any required percentage-based CAL reduction targets set in that fiscal year's annual budget process.~~