

RESOLUTION No. 36868

Accept City of Portland Disparity Study Report and direct the Office of Management and Finance to take immediate action to enhance the City's equity programs and to bring forward recommendations to City Council to further expand and strengthen the programs no later than February 2012 (Resolution)

WHEREAS, the City of Portland (City) is committed to equal opportunity through policies that promote diversity and equity in contracting; and

WHEREAS, in 1995, the City and the Portland Development Commission (PDC) took part in the Oregon Regional Consortium Disparity Study that examined public construction contracting methods, which concluded that minority- and women-owned businesses were underutilized at the prime contracting level and made a series of recommendations that resulted in the City's adoption of the Fair Contracting and Employment Strategy; and

WHEREAS, programs currently in place include: Sheltered Market Program, Good Faith Efforts, Workforce Training & Hiring, and Professional Services Marketing & Outreach; and

WHEREAS, data from the previous study is now stale and may not provide a sufficient legal basis to support the City and PDC's current Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) programs; and

WHEREAS, as part of the City's commitment to encourage fair and equitable contracting for women and people of color, the City engaged a nationally recognized consultant firm to conduct a disparity study on our current efforts to promote a "level playing field" for minority-and women-owned firms in contracting; and

WHEREAS, in April 2009, a Request for Proposals to update the disparity study was issued and the evaluation committee, which included community representatives, chose BBC Research & Consulting to perform the disparity study for the City and PDC; and

WHEREAS, BBC Research & Consulting has conducted disparity and availability analyses for over 80 state and local governments across the United States and has had the methodology used in this report upheld by the federal courts; and

WHEREAS, Commissioner Fish convened a Commissioner's Advisory Group which met five times throughout the 18 month process and was made up of diverse, broad-based community representatives, including Marcela Alcantar, Jason Lim, Nate McCoy, Penny Painter, Maurice Rahming, Carmen Rubio, Andrew Beyer, Rudy Martinez and Mel Sears; and

WHEREAS, in April 2010, construction related professional services were added to the study as result of feedback from the Advisory Group; and

WHEREAS, the BBC study team began the assignment in the fall of 2009 and presented a draft report to the City and PDC in January 2011; and

WHEREAS, research was conducted on procurement and contracting procedures and Minority, Women and Emerging Small Business programs, utilization, availability and disparities, examining a five year contracting period from July 1, 2004 – June 30, 2009; and

WHEREAS, the study team also evaluated the legal framework governing race and gender-neutral practices in public construction, analyzed marketplace conditions and explored possible explanations for any disparities; and

WHEREAS, the City and PDC conducted extensive outreach to solicit public input via the Internet, letters, email, and meetings, and the final report reflects the public's comments; and

WHEREAS, the report is comprised of three essential, legally significant components: 1) Statistical results of utilization and disparity; 2) The catalogue of anecdotal evidence; 3) The public comment in response to the report draft; and

WHEREAS, the results of the study were mixed, finding clear disparity on projects that received PDC funds without direct project management while generally finding some disparity on City and PDC-owned contracts; and

WHEREAS, there is evidence of disparities in the utilization of MBEs and WBEs when City Fair Contracting programs did not apply; and

WHEREAS, BBC found that the City and PDC should continue to enhance efforts to help all small businesses, regardless of race and gender and that the agencies may want to further research whether certain barriers to MBEs and WBEs can be minimized or removed; and

WHEREAS, from the statistical results, the anecdotal evidence, and public comments the City has legal grounds to continue and enhance current equity programs; and

WHEREAS, the study additionally provides direction on issues such as bonding, insurance, prequalification, capacity building, access to capital and other systemic obstacles to the success of minority-and women-owned businesses in Portland.

NOW, THEREFORE BE IT RESOLVED the City of Portland hereby accepts the City of Portland Disparity Study report in its final form attached as Exhibit-A; and

BE IT FURTHER RESOLVED, as a first step, City Council directs the Office of Management and Finance, Bureau of Internal Business Services, Procurement Services division to take the following immediate actions:

- Expand and Improve Outreach: Use electronic notifications of solicitations with our partner organizations such as OAME, NAMCO, DJC and minority chambers. Provide assistance to general contractors in outreach for sub-contracting opportunities on Construction Manager General Contractor projects. Conduct quarterly outreach events

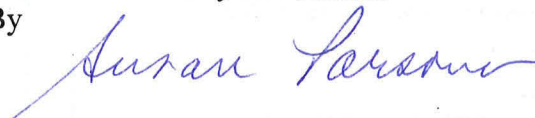
focused on upcoming city projects and connecting larger companies with M/W/ESB firms with an emphasis on partnering for specific projects.

- **Improve Forecasting:** Initiate monthly bureau representative meetings in order to discuss projects that are ready for design and if there are opportunities for the use of alternative contracting methods to encourage maximum opportunities for M/W/ESB firms. Require bureau upkeep of both the construction and professional services contracting forecast calendars. Require bureau project managers to attend outreach events.
- **Restructure Sheltered Market Program:** Graduate all current Sheltered Market contractors. Cease the Sheltered Market Program as it currently exists and create an improved program to replace it.
- **Review and revise the Contractor Prequalification Program:** Require all requests for project specific special prequalification to be evaluated and approved by Chief Procurement Officer before being applied. Approval of all prequalification requests \$250,000 and under will be based upon bonding capacity (as provided by a surety). Applications will not be forwarded to the bureau for evaluation of additional prequalification criteria.

BE IT FURTHER RESOLVED the City Council hereby directs the Office of Management and Finance, Bureau of Internal Business Services, Procurement Services division to work with the Fair Contracting Forum, other interested organizations, City bureaus and PDC to review the guidance provided by the disparity study and bring forward recommendations to City Council to expand and strengthen the City's equity programs no later than February 2012.

Adopted by the Council: JUN 22 2011

LaVonne Griffin-Valade
Auditor of the City of Portland
By



Deputy

Mayor Sam Adams and Commissioner Nick Fish
Prepared by: Christine Moody
Date Prepared: June 16, 2011

Agenda No.
RESOLUTION NO. 36868
 Title

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Adams / Commissioner Fish</p>	CLERK USE: DATE FILED <u>JUN 17 2011</u>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish <i>N Fish by EA</i></p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Procurement Services Bureau Head: Christine Moody, CPO</p>	<p>ACTION TAKEN:</p>
<p>Prepared by: Christine Moody <i>CM</i> Date Prepared: 6/16/2011</p>	
<p>Financial Impact & Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date 6/22/11</p>	
<p>City Attorney Approval – N/A</p>	

AGENDA

TIME CERTAIN
Start time: 2:00 PM

Total amount of time needed: 60-MINS. *2 hrs.*
 (for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	—	
4. Leonard	✓	
Adams	✓	