



City of San José
Small Business Advisory Task Force
09/19/19

Members:

District 1 – Vice Mayor Chappie Jones, *Chair*
Hispanic Chamber of Commerce – Dennis King, *Vice Chair*
FilAm Chamber of Commerce Silicon Valley – Allie Lopez
Rainbow Chamber of Commerce – Ron Gardner
Silicon Valley Black Chamber of Commerce – Carl Davis Jr.
Silicon Valley Chinese Technology & Business Association – Helen Wang
Silicon Valley Organization – Mason Fong
Silicon Valley Vietnamese American Chamber of Commerce – Nancy Avila
Winchester Business Association – Ken Kelly

Alternates:

Not Applicable
Lourdes Arvizu
Marinel Messersmith
Raymond Mueller
Wilbur Jackson
Khanh Hoang
Eddie Truong
Vacant
Vacant

Associate Members:

Taiwanese American Chamber of Commerce – Annie Tsai
Vietnamese American Chamber of Commerce – Nga Nguyen

Hannah Yu
Long Nguyen

REGULAR MEETING AMENDED AGENDA

3:00 pm

September 19, 2019

San José City Hall
18th Floor, T-1854

For Conference Call, dial (605) 313-4443 with Access code: 724205

- 1. Call to Order, Roll Call & Introductions**
- 2. Public Comment**

(Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter of the Task Force. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Task Force.)

- 3. Consent Calendar**
 - A. Approve the Minutes for the Regular Meeting of August 15, 2019**
- 4. Old Business**
 - A. Review of Public Works Department Memo & Recommendations Re: Disadvantaged Business Enterprise (Christopher Hickey)**
 - B. Subcommittee Report on Language & Cultural Competency Barriers (Members Allie Lopez, Nancy Avila, Ken Kelly, Raymond Mueller, Helen Wang)**
 - 1. Subcommittees 2019**

5. New Business

- A. Request for Task Force's Feedback Re: City's Business Tax Amnesty Program & Outreach (Rick Bruneau)**
- B. Briefing on Upcoming Council Study Session addressing Small Business Displacement (Victor Farlie)**
 - 1. Overview**

6. Meeting Schedule and Agenda Items

The next regular meeting will be October 10, 2019 at 4:00 pm, San Jose City Hall, 18th Floor, T-1854.

7. Announcements

8. Adjournment

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting.

Please direct correspondence and questions to:

City of San José
District 1
Attn: Raania Mohsen
200 East Santa Clara Street, San José, California 95113
Tel: (408) 535-4901
Email: raania.mohsen@sanjoseca.gov



City of San José
Small Business Advisory Task Force
08/15/19

DRAFT REGULAR MEETING MINUTES & SUMMARY
Thursday, August 15, 2019

Call to Order & Orders of the Day

PRESENT: Chair Hon. Chappie Jones (call-in), Vice Chair Dennis King, Members: Allie Lopez, Ken Kelly, Carl Davis Jr., Nancy Avila, Alternates: Ray Mueller (arrived 4:09 PM), Alternate Mee Tu (call-in 4:00 pm; arrived 4:30 pm)

OTHERS PRESENT:

Margaret Sanchez

ABSENT: Mason Fong

STAFF: Christopher Hickey, Dhez Woodworth, Raania Mohsen.

Vice Chair Dennis King convened the Small Business Advisory Task Force Committee at 4:02 pm in Conference Room T-1854 at City Hall, 200 E. Santa Clara Street, San José, CA 95113.

Public Comment

There was no public testimony on the floor.

Consent Calendar

- A. Approve the Draft Minutes for the Regular Meeting of June 13, 2019

Documents Filed: Draft Minutes for the Regular Meeting of June 13, 2019

Action: Motion made by Member Ken Kelly to approve the Minutes and seconded by Chair Chappie Jones, the Draft Minutes was unanimously approved. (8:01. Absent: Fong).

Old Business

A. Subcommittee Updates

Member Allie Lopez led the discussion on summarizing the Language & Cultural Competency Barriers Subcommittee's past two meetings, in which they defined the objectives and identified key barriers to the success of small businesses: cultural, linguistic, and financial. Chair Hon. Chappie Jones mentioned that one barrier for small businesses is their lack of trust with the government, and proposed thinking of ways for us to reach out and improve that trust. Implementing a mentor/mentee program would

facilitate reaching out to disadvantaged groups. Vice Chair Dennis King also spoke to the Contracts Subcommittee future focus and mentioned Procurement Technical Assistance Centers (PTAC), one-to-one advising center for those looking to government contracting. The Association of Procurement Technical Assistance Center (APTAC) website also offers free assistance with System for Award Management (SAM) registration.

New Business

A. Presentation on Disadvantaged Business Enterprises Staff Recommendations in Preparation for Memo to Community & Economic Development Committee (Christopher Hickey)

Documents Filed: Small Business Displacement and DBE Summary of Recommendations.

Christopher Hickey presented on the success and challenges of the programs designed and implemented for the City's Disadvantaged Business Enterprise. Los Angeles has implemented DBE, Wome-owned Business Enterprise (WBE), and Other Business Enterprise programs and uses 10 staff member to do their own certifications. San Jose would need five additional staff members to implement and accomplish the same standards.

B. Request for Task Force's Feedback Re: Disadvantaged Business Enterprises (Chair)

Task Force Members shared the following comments and suggestions:

1. Further develop marketing campaign
2. Hire local consultants that know and understand the area
3. Identifying success of small businesses and how they've reached that success. Go out to districts and ask businesses what they need and what can be done better (pass success tips to smaller, disadvantaged groups)
4. Member Carl Davis Jr. noted an app that his organization is working on that will include surveys and can be sent out to small businesses to ask them what resources they need to be successful.
5. Capture success stories and share them with the public
6. Appreciate the City's efforts
7. It takes extensive effort to bring people to academy
8. Regarding the City's new e-procurement portal Biddingo, it is a Canadian-owned service that operates according to the Eastern Standard Time Zone and thus is limited in the amount of hours it is accessible to local businesses who do business per the Pacific Time Zone. It was noted that Biddingo was selected on the basis that it offered to meet the City's needs and requirements without additional costs to the City. More information can be provided as needed.

If the Task Force chooses to submit its recommendations/suggestions in writing, it is due by August 30th so it can be included and addressed in the Public Works Department memo.

Announcements:

- Member Raymond Mueller noted the Rainbow Chamber's Economics Program Webinar Series, partnership and support of Census 2020, and the upcoming Connect 2019 event to be hosted on September 25, 2019, 6-8:30 pm at the Tech Museum of Innovation.
- Vice Chair Dennis King announced the upcoming Festiv' All, a multicultural small business resource fair, on October 18, 2019, 5 – 8pm, at San Jose City College. Thousands expected to attend and participate; it offers a great opportunity for networking and connecting. Admission is free.

C. Meeting Schedule and Agenda Items

The task force revised the meeting date. The new meeting date will be September 19th at 3 pm in City Hall Conference Room T-1854.

D. Adjournment

The meeting was adjourned at approximately 5:13 p.m.

Action: Motion to adjourn made by Member Carl Davis Jr. and seconded by Chair Chappie Jones. (8:0:1. Absent: Fong).

Hon. Chappie Jones, CHAIR

ATTEST:
ADVISORY TASK FORCE SECRETARY

RAANIA MOHSEN, SENIOR COUNCIL ASSISTANT

DBE

CMO Lead: Kim Walesh- OED Lead Dept./Staff: PW/Chris Hickey

Council/Committee: Community and Economic Development Committee (CEDC)

Next update: September 23, 2019

- Council Priority #3- Disadvantage Business Enterprise

Legal Issues

- Proposition 209- approved in 1996 made preferential treatment programs illegal
- City replaced its program by requiring each contractor bidding on public works contracts of \$50,000+ to demonstrate that he/she did not exclude MBE (Minority owned Business Enterprises) /WBE (Women owned Business Enterprises) subcontractors by the following:
 - (1) a certification of nondiscrimination/ nonpreference and;
 - (2) a rebuttable presumption of nondiscrimination
- In 2000 it was determined that the City program was deemed unconstitutional (Hi Voltage Wire Works Inc v. City of San Jose)

Consultants

- Two consultants: Keen Independent Research and Silvy Group
- Consultants combined efforts on Service Order #2 (bulk of the work)- determined what barriers the City has (Internal and external) and other programs in other jurisdictions meeting the 209 requirements (report attached).

Current work

- Public Works Academy-
 - Two part program
 - 1. Outreach and Engagement- Opportunity Awareness Events held at community centers throughout San Jose. Focus: Engaging the contracting community with upcoming trainings and projects.
 - 2. Public Works seminars- 6 part series of trainings. Focus: Educating contractors on working with the City, requirements needed prior to bidding, during the construction phase, and after construction. Contractors who attending all seminars and pass final exam, receive a certificate of completion that may be used in-lieu of government experience.

- Pre-qualification procurement

Staff Issues

- Staffing. Prior the previous program being deemed unconstitutional, OEA had approx. 8 staff certifying MBE/WBE.
- Outreach- Consultants tasked with performing outreach events, including one on one tutorials, meet and greets, and workshops on City procurement requirements
- With varying requirements and reporting, a system of tracking would need to be developed

Staff Recommendation

Category	Component	Phase I Implementation	Status of Phase I
Education, Outreach & Support	Public Works (PW) Academy	PW Academy has been implemented to increase knowledge and experience in local contractor community.	Implemented
	Contractor Outreach Enhancement	Multiple outreach sessions including in Vietnamese and Spanish.	Implemented
	Bidingo	Implementation of new bidding software to enhance contractor outreach	Implemented
	Local Chamber relationships	As part of the general outreach program, develop ongoing relationships with Black, Hispanic & Vietnamese Chambers	Implemented
Policy Changes	Local & local/small preference	Include in all minor public works bids (5%)	Council in August 2019
	Procurement modifications	Experimental procurement method to increase the use of local and small contractors through pre-qualifications processes, while still obtaining competitive bids	Implemented
	Government work waiver	<p>A barrier to contracting and working with the City is Contractors must have previous government experience to be qualified to bid and be awarded City Public Work construction contracts.</p> <p>Contractors are required to provide, at the time of bid, three (3) previous work experiences similar in scope to the project being bid and two (2) need to be with a government agency.</p> <p>Should a contractor attend the Public Works Academy and pass a course- exam, the contractor may use completion of the Academy in-lieu of prior government work experience.</p>	Implemented

	Bonding & Insurance Support	<p>Prequalification process is similar to the City’s process for “On-Call” contracts in that a contractor is required to show proof of ability to bond, but not require bond until they are guaranteed work from City.</p> <p>The Prequalification process is benefits small and local contractors by lowering the bonding requirements and capacity. Instead of one high value contract, with multiple task orders and requirement for bonding on the entire contract amount when the contract is executed, the prequalification allows for a variety of contract values, lowers the bonding threshold, and increase the number of opportunities and potential contractors awarded contracts.</p>	Implemented
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Component	Phase II Consideration
Public Works (PW) Academy	Expansion of number of academies per year and language capacity expansion.
Contractor Outreach Enhancement	Expansion of quantity of events, prime and subcontractor networking events.
Local Chamber relationships	Continue to enhance relationships and connections.
Local & local/small preference	Potential shift of more major projects to Best Value contracting to enhance local/small preference
Procurement modifications	<p>Consider sheltering specific types of work for only small local contractors in the future.</p> <p>Sheltered Market Program determines a type of contract (e.g. sidewalk repairs, structure demolition, etc.) under certain dollar thresholds, that City staff would request bids from a selected group of small, local contractors.</p>

	Staff believes the Prequalification procurement process is more flexible, time saving, and beneficial to a greater number of contractors. Staff will analyze the effectiveness of the prequalification procurement process and will bring forward future policies changes if needed.
Bonding & Insurance Support	Consider options involving the City assisting contractors in obtaining bonding/insurance.

Alternative: MBE/WBE/OBE Program

Component	Phase II Consideration
Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE), and Other Business Enterprise (OBE) contract goals	<p>Potential legal challenges from Prop 209, state and federal constitutions. Prop 209 states that the state or public agency shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. Increased staffing and resources for verification and compliance.</p> <p>Program of this nature focus on subcontracting, not development of contractor to obtain contracts as general/prime. The City of LA, Bureau of Contract Administration, developed the Business Inclusion Program (BIP)[to provide MBE, WBE, SBE, and OBE an equal opportunity to participate in the performance of City contracts. This program is a general outreach program that sets goals for general contractors to reach out to MBEs, WBEs, SBEs, and OBEs. This statement is ambiguous. Are you trying to say that LA's program focuses on subcontracting whereas the City is trying to focus on developing general contractors.</p> <p>The program outlined below focuses on outreach to these same groups, providing them training and education, opening opportunities as general and subcontractors, and removing barriers not addressed in other programs.</p> <p>Staff will continue to review the development and the effectiveness of the City of Los Angeles. Staff will provide updates and potential recommendations through annual reporting.</p>



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Matt Cano

**SUBJECT: COUNCIL PRIORITY #3:
CITYWIDE CONTRACTING
PROGRAM UPDATE**

DATE: September 13, 2019

Approved /s/
Kim Walesh

Date

RECOMMENDATION

- 1) Approve the workplan for the phased implementation of the Public Works Contracting Program report on Council Priority #3- Disadvantage Business Enterprise Program, currently identified as the Public Works Contracting Program;
- 2) Approve removal of this Council Priority #3 – Disadvantaged Business Enterprise Program, from the Council Priority list at the next priority setting session.

OUTCOME

Approval of this item would implement an ongoing city program based on the priority referred to the City Manager in Council Policy Priority #3, resulting in an ongoing City program to support the inclusion of a broader spectrum of our community in the construction opportunities offered by our capital improvement program.

BACKGROUND

At the June 23, 2015 City Council Priority Setting Session, Mayor Liccardo and Councilmembers Karla, Peralez and Matthews' March 20, 2015 memorandum provided direction (Council Agenda 3/24/15, Item 6.1) to return to the Community and Economic Development Committee (CED) with a strategy to implement a Disadvantaged Business Enterprise (DBE) Program. At the May 23, 2017 City Council meeting (Item 2.16), Council approved Master Agreements with Silvy Group and Keen Independent Research LLC and Milagro Marketing LLC, a Joint Venture, for consulting services for the Public Works Contracting Program (PWCP). The PWCP is currently Council Priority number three.

At the June 26, 2018 CED Committee, staff provided information gathered, analyzed, and reported by the consultants on the City of San Jose's ability to expand opportunities for diverse

businesses in its public works contracting. The consultants identified barriers by reviewing current practices and constraints, and examining the external business environments. The Committee approved staff recommendations as follows: 1) Analyze each program for feasibility, legal considerations, staffing, and resource consideration and 2) Develop and implement an Outreach and Engagement Action Plan.

At the January 14, 2019 CED Committee, staff provided an update on the Outreach and Engagement Action Plan and the introduction of the Public Works Academy.

Specifically, the Keen Independent Research report detailed nine potential small business initiatives that needed to be reviewed for feasibility as follows:

1. Small Business Enterprise contract participation goals on locally-funded City Contracts;
2. Local and Small business preference program (extension of non-construction contracts);
3. Socially and economically disadvantage business program;
4. Minority-owned Business Enterprise (MBE), Women- owned Business Enterprise (WBE), and Other Business Enterprise (OBE) contract goals similar to the City of Los Angeles;
5. Sheltered Market Program;
6. Working Capital Program;
7. Changes to bonding, prevailing wage, and other requirements;
8. Other methods of open procurement opportunities and increase transparency of awards; and
9. Direct contact with local, small businesses to directly inform them of bidding opportunities, education, and training.

Additionally, the Silvy Group report detailed the need for increased outreach and engagement of the contracting community. The analysis section of this report provides staff's recommendation on a phased implementation plan for the PWCP.

ANALYSIS

With a five-year Capital Improvement Program valued at nearly \$4 billion, the City must be proactive to ensure that we are "Building our City *with* our Community" by providing opportunities for our small and local businesses and workers to financially participate on the City's construction projects. The Public Works Contracting Program (PWCP) is meant to specifically address this challenge through a combination of education, outreach, and policy changes.

Importantly this program applies only to the City's procurement of one type of contract: a public works construction contract. Public works construction contracts are governed by different procurement requirements than are applicable to the City's procurement of other goods and services.

There are many definitions for local, small, and disadvantaged businesses. The City has a preference program for the procurement of contracts other than public works construction contracts. It also has a preference program for procuring public works contracts that are \$600,000 or less. Both preferences use the terms “Local Business Enterprises” and “Small Business Enterprises.” San Jose Municipal Code Section 4.12.030 defines a Local Business Enterprise as a business entity within the County of Santa Clara. Section 4.12.060 defines a Small Business Enterprise as a business that has 35 or fewer employees. This memorandum uses these definitions of “small” and “local.”

This memorandum uses the Caltrans definition of a disadvantaged business as being a business in which the owner who is “economically disadvantaged.” Caltrans defines an owner as being economically disadvantaged if he/she has a personal net-worth of less than \$1.32 million.

As discussed in the Silvy report, the City had not established consistent avenues for general and subcontractor outreach to inform them of upcoming opportunities and resources. Staff used Caltrans Disadvantaged Business Enterprise contractor lists and the San Jose business license tax database (companies with 35 or less employees within Santa Clara County) to develop the mailing/e-mailing lists for the PWCP. In total, 6000+ contractors with a wide range of specialties were notified of the PWCP and upcoming events.

In order to achieve the maximum possible impact on the local, small, and disadvantaged business community, staff is recommending a phased approach to implementation of the PWCP. A number of the items recommended in the Keen and Silvy reports have been implemented or are in the process of implementation. The below table provides a breakdown of the items that are recommended for inclusion in the PWCP. Further description and explanation of each component is included in following sections.

Public Works Contracting Program Summary (further detail of these items are included in Attachment A)

Component	Description
Education, Outreach, and Support	
Public Works (PW) Academy	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> PW Academy has been implemented to increase knowledge and experience in local contractor community.</p> <p><u>Future Phase to be evaluated</u> Expansion of number of academies per year, language and cultural capacity and investigate feasibility of partnering with other local agencies on contractor outreach and education.</p>
Contractor Outreach Enhancement	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Outreach through e-mail and hardcopy to 6000+ contractors on the Caltrans DBE list and the San Jose Business license tax registry. Multiple</p>

	<p>outreach sessions, including in Vietnamese and Spanish, aimed to inform contractors of upcoming opportunities and Public Work Academy.</p> <p><u>Future Phase to be evaluated</u> Expansion of quantity of events, prime and subcontractor networking events.</p>
Biddingo	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Implementation of new bidding software to enhance contractor outreach</p> <p><u>Future Phase to be evaluated:</u> Continue to expand the use of available tools from new software.</p>
Local Chamber relationships	<p><u>Phase I</u> <i>Status:</i> Partially implemented <i>Description:</i> As part of the general outreach program, develop ongoing relationships with Black, Hispanic & Vietnamese Chambers. Additionally, work with local chambers to connect small businesses to providers who can help them build their administration capabilities such as accounting, insurance, and payroll.</p> <p><u>Future Phase to be evaluated:</u> Continue to expand and build on programs and networking opportunities offered by local chambers.</p>
Policy Changes	
Local & local/small preference	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Include a 2.5% preference for local contractors and a 2.5% preference for small contractors in procurement of all public works contracts that are \$600,000 or less.</p> <p><u>Future Phase to be evaluated:</u> Potential to look at ways to provide same local/small preference on procurement of major public works contracts over \$600,000.</p>
Procurement modifications	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> New procurement method that includes as one of its goals increasing the use of local and small contractors. Contract with a pool of pre-qualified contractors who will compete for smaller size public works projects.</p> <p><u>Future Phase to be evaluated:</u> Consider sheltering specific types of work for only small local contractors in the future.</p>

	<p>Sheltered Market Program determines a type of contract (e.g. sidewalk repairs, structure demolition, etc.) under certain dollar thresholds, that City staff would request bids from a selected group of small, local contractors.</p> <p>Staff believes the new procurement method is more flexible, time saving, and beneficial to a greater number of contractors – while accomplishing many of the same goals as a sheltered market program. Staff will analyze the effectiveness of the new procurement method and will bring forward future policy changes if needed.</p>
Government Experience work waiver	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> A barrier to contracting and working with the City is Contractors must have previous government experience to be qualified to bid and be awarded City Public Work construction contracts.</p> <p>Contractors are required to provide, at the time of bid, three (3) previous work experiences similar in scope to the project being bid and two (2) need to be with a government agency.</p> <p>Should a contractor attend the Public Works Academy and pass a course-exam, the contractor may use completion of the Academy in-lieu of prior government work experience.</p> <p><u>Future Phase to be evaluated:</u> Partner with other local jurisdictions to determine if the PW Academy certificate can be used to waive any government work requirement from those jurisdictions.</p>
Bonding & Insurance Support	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> The new procurement method discussed above benefits small and local contractors by lowering the bonding requirements and capacity. Instead of one high value contract, the new procurement method allows for a variety of contract values, lowers the bonding threshold, and increase the number of opportunities and potential contractors awarded contracts. It also allows them to wait until they have been guaranteed work to secure their bonding.</p> <p><u>Future Phase to be evaluated:</u> Consider options involving the City assisting contractors in obtaining bonding/insurance and building connections that may provide support to small and local contractors.</p>

Public Works Contracting Program Alternatives

The majority of the recommendations in the Phase I implementation of the PWCP focus on creating more opportunity for local and small businesses to compete for public works construction contracts through enhancing opportunity, awareness, education, and tools. Another alternative recommendation is to set specific standards for inclusion of certain types of contractors in Public Works construction projects. At this time, staff is not recommending the implementation of a Minority-owned Business Enterprise (MBE), Women- owned Business Enterprise (WBE), and Other Business Enterprise (OBE) contract program. Implementation of a MBE/WBE/OBE program would be resource intensive and is not guaranteed to increase participation. At this time, staff's recommendation is to focus on the items recommended in the preceding sections and continue to report back to the Mayor and City Council on an annual basis. If, at a future date, the PWCP is not showing the intended results, staff recommends further consideration of a program that sets specific inclusion targets and/or goals. Further description of a potential MBE/WBE/OBE program, along with other programs not recommended at this time, is included as Attachment B of this memorandum.

Small Business Advisory Task Force

The Small Business Advisory Task Force (SBATF) was established to facilitate feedback and recommendations to the City regarding proposed changes to policies affecting small business growth, such as procurement and other key items. In a memo dated September 5, 2019, the SBATF provided recommendations on the Public Works Contracting Program. The memo recommends the following:

- Strengthen Education Outreach and Support;
- Continue cultivation of local chamber relationships;
- Expand accessibility to Bidding help and support;
- Offer compliance education and resources for small businesses;
- Increase access to data across departments;
- Promote or create a matchmaking/mentorship program for small and underrepresented businesses; and
- Utilize SBATF as a forum for communication.

Public Works generally agrees with the recommendations and a number of these recommendations are included as part of the recommended PWCP Phase I implementation. Some of the recommendations require additional analysis regarding the resources and timeline for implementation as noted in Attachment C. Attachment C provides staff's recommended approach to each of the recommendations from the SBATF as well as a copy of the letter.

CONCLUSION

Many of the barriers for small, local, disadvantage businesses in contracting with the City of San Jose are required by state law. Many potential changes to address these barriers are prevented by, or may be legally challenged, under state and federal law. To meet the needs of the community and the goals of increased participation within our small, local, and disadvantaged

community, a program requires flexibility and adaptability. The Public Works Contracting Program developed and implemented meets those requirements in a manner that efficiently uses limited resources, is consistent with state and federal law and minimizes the risk of legal challenges. Public Works will continue to collect and analyze data on the effectiveness of the program. Annual updates will be provided through the Contracting with Local and Small Business report to CED.

COORDINATION

This memo has been coordinated with the Office of Economic Development and the City Attorney's Office.

/s/

MATT CANO

Director of Public Works

For questions, please contact Christopher Hickey, Division Manager, Public Works Department at (408) 535-8481.

Attachment A

Public Works Contracting Program – Description of Programs

As staff reviewed the potential programs for feasibility, legal constraints and risk, and resources needed, it was apparent that each program had strengths and flaws and not one program would meet the needs of the City. Staff analyzed each program in order to develop a functioning program with the goal of increasing participation from small and local contractors, while reducing the risk of legal challenge and increased staffing and resource costs. Staff also sought stakeholder input on a potential program from the City's contracting community, non-profits, other business organizations, and the City's Small Business Advisory Task Force. The Public Works Contracting Program is summarized in the body of this report and this section provides further detail on the elements of the program.

Education, Outreach & Support – Public Works Academy & Contractor Outreach Enhancement

Community outreach and engagement on construction, maintenance/service, and professional opportunities to the community was found to be unreliable and in some instances, non-existent. The Silvy Group recommended the City improve its communication and engagement approach to the underrepresented contracting community, including small and local, through an action plan that included workshops, on-line videos, and potential one on one counseling.

Staff developed the Public Works (PW) Academy, focused on engagement and outreach to the local construction community and seminar series to develop contractors to bid and ultimately be awarded future construction contracts.

The Public Works Academy is a multiple pronged program; Opportunity Awareness Events to engage the community at multiple community centers across the City, seminars to educate potential contractors on requirements and working with the City, workshops to address specific concerns in more detail (i.e. Prevailing Wage and Bidding training), and online tutorials providing contractors an opportunity to learn at their own time. Staff conducted extensive outreach to 6000+ contractor via e-mail and hardcopy notifications to contractors found on the Caltrans certified DBE list, San Jose Business license tax for companies within Santa Clara County and with 35 or fewer employees (defined as "Small Business" within the Municipal Code). Additionally, staff partnered with the Hispanic Chamber of Commerce, Vietnamese Chamber of Commerce, the Silicon Valley Black Chamber of Commerce, SCORE, and BusinessOwnersSpace.com in an effort to reach contractors not certified or performing work within the City of San Jose.

In the inaugural Public Works Academy there were five Opportunity Awareness Events which attracted 65 attendees and a four-part seminar series that had 36 students with 29 graduates. A second Public Works Academy consisting of Opportunity Awareness Events and a six-part seminar series concluded on September 4, 2019. Additionally, although the primary academy is taught in English, translation services are available and, if there is enough interest, staff will

consider a future Vietnamese and/or Spanish language academy. The program has been, and will continue to be, adjusted after engagement with the potential contractors in order to meet their needs, reduce potential barriers, and meet the goal of City.

To ensure Public Works can continue this level of service to the contracting community, the Fiscal Year 2019-2020 budget approved a position in Public Works to oversee training for internal capital improvement program staff and will also oversee the external Public Works Academy trainings. This position will increase the effectiveness and reach of the Public Works Contracting Program, including but not limited to, development of a marketing program to reach businesses who have not previously worked with the City of San Jose or our partners in the chamber of commerce, match-making and mentorship programs, and Biddingo and prevailing wage workshops. In addition, Public Works also received one-time funding which will assist with the marketing, branding, and materials for the Academy.

Staff developed, with assistance from the Silvy group, sixteen (16) YouTube videos examining and explaining the requirements and process in entering into a construction contract with the City, including but not limited to, prevailing wage, e-procurement (Biddingo), bonding and insurance. Contractors are able to view the videos multiple times and at their own convenience.

Moreover, Staff has performed six Opportunity Awareness Events, which are In-person workshops designed for face-to-face contact between Public Works staff and the contracting community. The events focus on contractor networking, upcoming opportunities, registration for the vendor management system (Biddingo), minimum requirements for contracting with the City, and information for online tutorials, future educational programs, and the Public Works Academy. Public Works mail, email, call local and small businesses found on the Caltrans website for DBEs, the San Jose Business license tax, and mailing lists from other organizations like the Hispanic, Vietnamese, and Black Chambers of commerce.

Education, Outreach & Support – Biddingo

Keen Independent reviewed the City's procurement process and the Bidsync system to identify potential improvements. Keen noted that Bidsync may not be difficult to use for companies familiar with that system or similar systems; however, companies who had not previously worked on Bidsync or similar might perceive the system as a barrier. Due to complicated forms, membership/fee confusion (free for the City of San Jose projects), search functions, and level of details provided by the City, many contractors would be unable to obtain the information needed to successfully bid on City projects.

On August 21, 2018, City Council authorized the City Manager to execute an Agreement with Purchasing Technology Corporation of an e-Procurement Solution, later named "Biddingo." Biddingo simplifies the process for contractors to obtain notifications on potential projects by reducing the number of National Institute of Governmental Purchasing Commodity/ Service (NIGP) codes from 8,000 to 200, company specific profiles, and less burdensome search perimeters. The process for transition from Bidsync to Biddingo will take multiple months beginning with Public Works Construction that transitioned on June 3, 2019. Public Works staff

worked closely with Finance/Purchasing in development of an e-Procurement solution. The Public Works department focus was on ease of use and quick response to potential contractors, including company profiles that can be updated with bonding and insurance information, reducing the number of work codes that typically confused contractors and limited their ability to be notified of opportunities.

Education, Outreach & Support

In an effort to expand the City's general outreach to all contractors, the City entered into grant agreements with the Hispanic Chamber of Commerce Silicon Valley and the Silicon Valley Black Chamber of Commerce in an effort to increase awareness and expand communication with underrepresented businesses. Staff partnered with the Vietnamese Chamber of Commerce on a Opportunity Awareness Event at the Vietnamese- American Community Center on July 10, 2019. The relationship developed with these three Chambers has been fruitful, as half of the attendees to the Public Works Academy received notification through at least one of the Chambers. Additionally, staff attends, sponsors, and networks at annual events and summits held by these groups. An ongoing regular relationship with the local chambers will continue to be a key component to the success of enhancing small, local and disadvantaged business participation on City Public Works projects.

Policy Changes – Local & Small Preference

Currently, the City's local and small businesses preference program applies only to goods and service contracts. Public Works will be proposing to expand the program to apply to Public Works projects.

With the passing of Measure S- Procurement Modernization in November 2018, the minor public work construction contract threshold was increased from \$100,000 to \$600,000. Additionally, the following provision was added to the City Charter:

Nothing herein precludes the City from implementing otherwise lawful programs supporting the use of small, local or economically disadvantaged businesses.

Staff presented the proposed municipal code changes related to Measure S to the City Council in September 10, 2019. As part of these changes, staff recommended a small and small/local preference be applied to *minor* public works projects (e.g. up to a 5% preference on bid). With these changes, it is anticipated that the number of opportunities and contract awards for small and small/local business will increase for two reasons (1) The number of projects available through the Minor Public Works procurement process will increase with the dollar threshold increasing to \$600,000 and (2) a preference will be in place to assist local and small/local contractors to in competing for bids.

Policy Changes- Prequalification process, government work waiver & bonding & Insurance Support

Public Works staff has embarked on a procurement process for minor public works construction contracts intended to create a pool of qualified contractors that the City will enter into retainer agreements for various projects of general scopes. The pool will be used to solicit bids on individual task orders under the Minor Public Works amount that would normally contract with the City through the “On-Call” or minor public works contracts. Two specific benefits of the prequalification program for contractors include:

- 1) Contractors can waive the government work experience requirement by attending a session of the Public Works Academy and;
- 2) Unlike “On-Call” contracts that combines multiple task orders into one, high value contract and requires contractors to provide bonding on the total contract value, the prequalification pool allows the City to procure smaller valued projects to the prequalification pool, thus, lowering the bonding requirements for contractors while maintaining a competitive award process.

The contract pre-qualification pool process will create a more competitive award process for task orders, leading to a potential reduction in on-call contracts and better pricing and the use of more small/local contractors. The program should ease the path to new contractors to the City work by easing the barrier to entry of City work that some new contractors perceive is the full solicitation process of Major Public Works. Finally, it is anticipated that there could be an increase of local and small contractors competing for City work by introducing them to City project procurement in a more approachable way.

The construction pools allow City departments flexibility in procuring contracts with specific or broad types of work, and/or procuring contracts under specific dollar amounts. For example, the new procurement process has created contractor pools for Mechanical, Electrical, and Plumbing projects with varying scopes of work and also contractor pools for ADA sidewalk ramp repair work that is less than \$100,000. This flexibility increases opportunities to contractors, removes barriers to working with the City, while maintaining lowest costs through competition.

Attachment B

Programs Not being recommended at this time

The following programs are not being recommended at this time, however can be considered further during annual reporting and discussion regarding the successes of the PWCP in advancing opportunities for small and local businesses.

Minority-owned Business Enterprise (MBE), Women- owned Business Enterprise (WBE), and Other Business Enterprise (OBE)

An additional option for the PWCP is the implementation of specific MBE/WBE and OBE contract goals. Given the intensity of resources necessary for a program such as this staff is not recommending implementation of these goals at this time.

An MBE/WBE/OBE program is one that requires prime/general contractors to make “good faith efforts” to solicit bids from MBE, WBE, and Other Business Enterprises. Many of these programs do not require businesses to accept or use any of the bids received, although they do require the prime/general contractor to show some sort of good faith efforts to use certain kinds of subcontractors. At this time, staff does not recommend implementation of a MBE/WBE/OBE program at this time for the following reasons:

1. Contractor requirements- Contractor are required to be certified, certifications require private/personal information including but not limited to, personal tax returns, major projects/contracts/sales, and proof of ethnicity and/or gender;
2. Staffing resources- Public Works estimates 5.0 FTEs are required for application review, certifications, and on-going compliance review;
3. Focus on subcontracting- MBE, WBE, and OBE programs require prime/ general contractors to solicit subcontractor bids from these groups, neither guaranteeing opportunities or preparing the business to be awarded a contract as a prime/general.
4. Potential Proposition 209 problems depending on how the program is structured.

The City of Los Angeles (LA) has a “good faith” MBE/WBE/OBE program under the Office of Contract Compliance and Centralized Certification Administrations for Request of Bids, Request for Proposals, and Request for Quotes of \$100,000.00 or more. General Contractors interested in bidding on LA construction projects are required to make “good faith” efforts to receive subcontractor bids from companies who are certified as MBE, WBE, and OBE. However, the program is a traditional, general outreach program. There is no requirement that General Contractors accept or use these subcontractor bids, thus, not making more opportunities available to underrepresented contractors.

Staff believes this type of program is burdensome for contractors and requires enormous amount of city resources. Contractors are required to be certified as an MBE/WBE/OBE by providing personal and business information through an application process. This information includes list of major equipment (Owned/Leased), ownership interest, current licenses and permits, list of

major projects/contracts/sales, three (3) years of Federal tax returns, and proof of ethnicity and/or gender. Additionally, the City of Los Angeles administers the certification process through application review to determine validity of the information provided, including work place visits, and issuing annual certifications.

The PWCP focuses on contractor engagement, increased opportunities as general contractors through training and development, reducing barriers, including, burdensome application and certification processes.

Staff does not recommend an MBE/WBE/OBE Program at this time due to the lack of benefit to the contractors and substantial increase of City staffing costs. Staff would be required to market, certify, and maintain a list of MBE/WBE/OBE contractors, disseminate that information to general contractors in request bids, and verify that general contractors met “good faith efforts” of the program. Should the City Council decide to pursue an MBE/WBE/OBE Program similar to Los Angeles’s, staff estimates the program, including outreach and certification process, will require on-going staffing of at least 5.0 FTEs and an annual budget of \$150,000 for outreach, engagement, and marketing.

Staff will revisit this programs at a future date if annual reporting to the Community & Economic Development Committee on the status of the PWCP are not showing a significant impact in the participation of small and disadvantaged businesses in Public works projects.

Small Business Enterprise Participation Goals

Similar to MBE/WBE/OBE programs and other goal setting programs, Small Business goal setting focus on small businesses as subcontractors; providing them with opportunities for work but does not guarantee the use of their business, nor do these programs develop the contractor as potential prime contractors.

The PWCP engages and develops small businesses to be general contractors, while addressing multiple barriers in contracting with the City of San Jose. For example, small businesses are required to have prior experience as a prime/general contractor. In order to be eligible to bid on public works construction contracts, a contractor must provide references for a minimum of three (3) similar projects in which they were a prime contractor, and two (2) need to be with a government agency/ municipality. Through participation and completion of the Public Works Academy, small businesses are afforded the opportunity to use course completion in-lieu of government work experience. Additionally, small and local preferences have been added to minor public work construction contracts, further increasing the participation and opportunities to the small business community.

Staff does not recommend setting and/or requiring small business participation goal setting at this time. Staff will analyze the participation of small businesses on public work construction and may consider goal setting requirement at a later date.

Socially and Economically Disadvantage Business Program

Some cities have established assistance programs focused on economic and/or social disadvantaged individuals. Economic Disadvantaged Programs focus on the personal net-worth of an owner, not including business assets or personal residence.

To reduce potential legal challenges, a Social Disadvantage Business Program would be required to define “social” in a race, gender, ethnically neutral manner. Staff have researched similar programs and have not located a program that meets these requirements.

Socially and Economically Disadvantage Business Programs have similar barriers and challenges to programs listed above, including but not limited to, certification process placing burden on contractors to provide enormous amounts of personal information, focus of the program to encourage use of certified DBE contractors as subcontractors, and the lack of development of contractors as potential general contractors. Staff does not recommend development of a social and economic disadvantage business program due to effectiveness and potential legal challenge.

Working Capital Program

A Working Capital Program provides contractors lending opportunities to incentivize and support potential contractors to bid on City projects, including loans for bonds and insurance. This type of program may be implemented so long as there is no preference based on race, sex or ethnicity.

A barrier for some contractors is the bonding and insurance requirements. A bidder’s bond is required at time of bid and holds working capital for a contractor when award of a contract is not guaranteed. Additionally, performance bonds, payment bonds and insurance are required at contract execution and are for the entire amount of the contract, which for some contractors is higher than their bonding capacity.

This type of program would share the cost and risk between the City and the contractor. Bonding requirements, bidders, and performance, reduce the potential cost liabilities to the City. For instance, a performance bond is required in the full contract amount to guarantee the fulfillment of a particular contract and should a contractor fail to fulfill the contract, the performance bond would be used to complete the project

Additionally, staffing would be required for oversight of the funds being dispersed, repaid, and any interest (if any) collected that the City does not current have.

Staff does not recommend a Working Capital Program. However, as part of the new procurement method discussed above staff expects that the bonding and insurance requirements for small contractors will become simpler moving forward. Additionally, as part of the contractor outreach events, staff has partnered with Work2Future, SCORE, BusinessOwnerSpace.com, and local chambers to provide information and assistance to contractors requiring support.

Prevailing Wage and Waiver of Bonding Requirements

Senate Bill No.7, which the State legislature enacted in October 2013, added Section 1782 to the California Labor Code. Section 1782 requires charter cities to implement prevailing wage requirements at least as stringent as State law as a condition of receiving State funds for public works constructions projects. In November 2013, the City Council approved the Prevailing Wage Ordinance related to public works project to maintain the City's eligibility for State Funds.

Payment bonds protects subcontractors, workers and suppliers from nonpayment by the general contractor. In accordance with State law, a public entity must require a general contract to provide a payment bond for any public works contract exceeding \$25,000. The amount of the payment bond must be 100% of the contract amount. State law does not permit alternative forms of security and does not permit the waiver of a payment bond. The Public Entity awarding the contract must approve the bond before work begins.

Performance bonds were established to mitigate risk for public funds allowing the City complete projects in case a contractor is unable to complete a project. The City generally requires the performance bond to be for 100% of the contract amount. The City can waive a payment bond; however, there is really no savings in doing so because surety companies often issue performance bonds in conjunction with payments bonds as on public property mechanic liens cannot be used.

The City requires contractors to provide Bidders bonds at 10% of the aggregated bid amount, and payment and performance bonds for the total bid. Bidders bonds prevent companies and contractors from submitting flippant bids to secure contract. and The bonds required insures the City's and public's interest.

Staff does not recommend adjusting the bond and/or insurance requirements at this time.

Attachment C**Small Business Advisory Task Force Recommendations**

ATF Recommendation	Staff Recommendation
1. Strengthen Education Outreach & Support	Recommended for implementation as part of Phase I of the Public Works Contracting Program (PWCP)
2. Continue Cultivation of Local Chamber Relationships	Recommended for implementation as part of Phase I of the Public Works Contracting Program (PWCP)
3. Expand Accessibility to Bidding Help & Support	Recommended for implementation as part of Phase I of the Public Works Contracting Program (PWCP)
4. Offer Compliance Education & Resources for Small Businesses	Recommended for implementation as part of Phase I of the Public Works Contracting Program (PWCP). To be delivered in a Phased approach, starting with making basic connections and building over time.
5. Increase Access to Data across Departments	Staff agrees with this recommendation. Vital information is maintained by multiple departments and requires coordination. Public Works will support an initiative to connect and share data across departments. Updates will be provided to CED.
6. Promote or Create a Matchmaking/Mentorship program for small and underrepresented businesses	Staff agrees with this recommendation. Upon recruitment of the Public Works trainer, staff will begin analysis of a program to identify the staffing and resource needs for such an undertaking. These programs are utilized in other cities and require additional staffing and resources to accomplish. Updates will be provided to CED.
7. Utilize SBATF as a Forum of Communication	Recommended for implementation as part of Phase I of the Public Works Contracting Program (PWCP)

September 5, 2019

Christopher Hickey
Division Manager, Office of Equality Assurance
Department of Public Works
200 E Santa Clara Street
San Jose, CA 95113

SUBJECT: Disadvantaged Business Enterprise

Dear Christopher,

On behalf of the Small Business Advisory Task Force (SBATF), which is made up of small business representatives and leaders of local chambers of commerce, I submit this letter and set of recommendations in correlation with the Public Works Department’s memo addressing Council Priority Goal #3, Disadvantaged Business Enterprise (DBE).

First and foremost, we commend and strongly support the two new programs that have recently been undertaken by the Department of Public Works: Minor Public Works Contract Prequalification Program and Public Works Academy, to increase knowledge and experience in the local contractor community and to streamline the process of contracting with the City for small and disadvantaged businesses. The SBATF appreciates these two programs and has been instrumental in providing feedback to the Public Works Department through its initial implementation.

We commend the Public Works Department’s support, effort, and due diligence in attending our monthly meetings and considering and implementing some of the suggestions provided by the Task Force thus far. We support your recommendations and kindly request consideration of the following recommendations and suggestions to improve programmatic features and ensure continued success.

- 1. Strengthen Education Outreach & Support** – The Public Works (PW) Academy and multiple outreach sessions have been implemented, including in Vietnamese and Spanish; attendance was strong at the first public academy and fair at the most recent one. Much of this attendance has been dependent on the diligent work and outreach from local minority chambers of commerce, e.g. Black, Hispanic and Vietnamese Chambers, whom are members of the SBATF. Our members recognize the invaluable opportunity of the PW Academy and exert extensive effort to bring contractors to the PW Academy as participants. The Task Force recommends targeted outreach that considers not only language barriers but cultural barriers as well. Most immigrant-

owned businesses are not members of chambers of commerce and often require personalized communication to ease potential mistrust, a common sentiment often projected towards government agencies. A stronger marketing campaign focused on strengthening relationships with small business leaders could include or lead to collaboration between Council District Offices, business neighborhood associations, and ethnic chambers of commerce.

2. **Continue Cultivation of Local Chamber Relationships** – The City’s efforts are appreciated and key in ensuring continuous communication with small businesses, especially considering that in San Jose 95% of businesses are small, 60% are immigrant-owned, and 30% self-define themselves as deficient in English. To enhance and continue to cultivate relationships with local chambers of commerce, the Task Force recommends capturing success stories and experiences that have resulted from collaborations as part of its outreach and marketing to small businesses. For example, per the Task Force’s prior recommendation, grant agreements and funding allocation of \$50,000 for local ethnic and minority Chambers of Commerce have been executed for the purpose of providing services and resources to small businesses. The City should evaluate and highlight these type of successes as an effort to strengthen its relationships with small businesses and to build trust.
3. **Expand Accessibility to Biddingo Help & Support** – Users are looking forward to the potential benefits of the City’s new e-procurement portal Biddingo and complete migration for improved communication, user-friendly interface, and targeted notice of opportunities. The SBATF heard a presentation and received a training from city staff on using the new e-procurement portal. Based on that presentation members were then able to disseminate notice to their memberships encouraging enrollment and use of the new system. Users thus far have observed that the help and support service is available per Eastern Time Zone hours and via a non-toll free number. This can be limiting for small local businesses in California who do business per the Pacific Time Zone and often struggle with the basic costs of doing business. Should an issue occur that cannot be resolved in time for bid submission, this may cause a significant hindrance and prevent a small business from a potential opportunity with the City.
4. **Offer Compliance Education & Resources for Small Businesses** – In addition to considering aiding contractors with obtaining bonding/insurance, also consider providing small businesses with resources for outsourcing. For example, several small businesses often find it challenging to implement payroll services, especially when it is necessary to track hours and process prevailing wage and any other city payroll requirements. This and possibly other resources may address any potential compliance

issues that small businesses might encounter and enable them to do business with the City.

5. **Increase Access to Data across Departments** - Change the City’s privacy policy to allow the contact information of registered businesses available within the City, creating an email database network for all businesses operating within the City that is accessible to Council Districts and Departments to further enhance communication and outreach to small businesses.
6. **Promote or create a Matchmaking/Mentorship Program for Small and Underrepresented Businesses** – Develop a Matchmaking Program in which small businesses can meet and establish relationships with prime contractors and representatives of the City; at the same time, businesses can answer questions that could serve as a screening or qualification for a Mentorship Program that could lead to doing business with the City. A proactive matchmaking program could serve as a complement to the proposed consideration of Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE), and Other Business Enterprise (OBE) contract goals.
7. **Utilize SBATF as a Forum of Communication** – SBATF Members include small business representatives, associations, and local chambers of commerce. The Members have direct contact and trustful relationships with their own members and the communities they serve and can thus serve as an invaluable resource for distribution and communication of City services and opportunities available for the growth and support of small businesses. Regular attendance and communication by staff from the Departments of Economic Development and Public Works at our monthly meetings is greatly appreciated. In addition, we recommended consideration of an annual report from the SBATF be included in the CED Committee’s workplan.

Thank you for your consideration. We look forward to continuing to work with you and the Public Works Department to further develop opportunities for small business growth.

Sincerely,



Charles “Chappie” Jones
Vice Mayor, District 1
Chair, Small Business Advisory Task Force



Subcommittees 2019

In addressing the priorities adopted by the Task Force, which include 1) Government Contracting, 2) Small Business Resources, and 3) Compliance Education, the following subcommittees were formed on May 9, 2019 to address and focus on related items of interest. Subcommittees will meet and work independently to address items of interest and provide a report/update to the Task Force per the following timeline.

Subcommittees*		Report/ Recommendations Due
Language & Cultural Competency Barriers	Allie Lopez, Ken Kelly, Raymond Mueller, Helen Wang, Nancy Avila	September 12, 2019
Contracts	Dennis King, Helen Wang	October 10, 2019
<i>*Chairs to be selected by subcommittees</i>		

Business Tax Amnesty Program

Small Business Advisory Task Force

Presenters: Finance

Lisa Taitano, Assistant Director

Rick Bruneau, Deputy Director

Christopher Domingue, Program Manager

Eric Warnars, Sr. Collector

September 19, 2019

Background on San José Business Tax

- San José Business Tax was first adopted in 1964
- On November 8, 2016, San José voters approved Measure G to modernize the general business tax, effective July 1, 2017
- Business Tax Modernization enacted an ordinance that:
 - Broadened and increased the minimum base tax
 - Established progressive tax rates
 - Raised the annual cap on the maximum amount of tax
 - Instituted an annual adjustment for inflation
- Pre/Post-modernization Revenue and Exemptions:
 - FY 16-17: \$13M Revenue with ~\$2-3M revenue foregone due to exemptions
 - FY 18-19: \$27M Revenue with ~\$3-5M revenue foregone due to exemptions

What is Amnesty and why now?

- Limited-time opportunity for persons engaged in business in San José to pay past due business tax in exchange for forgiveness of penalties and interest
- Recent Business Tax Modernization measure changed the tax structure and rates, effective July 1, 2017
- Proposed amnesty application and covered tax periods:
 - Application period: October 1, 2019 to March 27, 2020
 - Covered tax period: October 1, 2016 to March 27, 2020
- Planned compliance campaign following Amnesty Program

Goals of the Amnesty Program

- Encourage businesses operating in San José to obtain a business tax certificate and comply with Chapter 4.76 requirements
- Educate San José businesses on the availability of exemptions
- Allow never-registered or delinquent businesses an opportunity to bring their account current, by paying the principal tax owed
- Allow businesses an opportunity to update their tax parameters
- Facilitate voluntary compliance and reduce administrative costs
- Provide one-time and ongoing revenue for funding essential City services

Benefit of Amnesty Program

<u>Example</u>	<u>Tax</u>	<u>ADA Fee</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total Without Amnesty</u>	<u>Total With Amnesty</u>
3 Prior Years + Current Year	\$744	\$10	\$75	\$214	\$1,043	\$754

Example of savings for business at base tax level:
\$289 savings by registering during Amnesty

Exemption Availability

- Businesses can continue to apply for one of the many exemptions during the amnesty period
- Businesses that qualify for an exemption, will not need to pay the tax, but are still required to register with the City
- Education on exemption availability is part of the outreach campaign

Updated Chapter 4.76 Definitions

Municipal Code changes to broaden the following definitions:

- Small business: updated to include a small business owned through a trust;
- Small business owner: updated to include a trustee;

Thereby making trusts and trustees eligible for either Financial Hardship Exemption.

Community Outreach

- Direct-mailing of approximately 60,000 notices informing never-registered and delinquent taxpayers of the Amnesty Program
- Radio Public Service Announcements
- Newspaper Advertisements
- Flyers to business/community groups to assist with circulation
- Information posting on City's homepage and television channel, community centers, and libraries
- Community meetings: Doing Business in San José
 - Educate businesses regarding the Amnesty Program
 - Educate businesses on qualifications for Business Tax Exemptions

Language Accessibility

- Translate outreach materials in Spanish and Vietnamese
 - Full translations will be posted on City's website
 - Concise statement regarding the availability of interpreting and translation services and links to website will be included on all correspondence
- Dedicate certified bi-lingual staff as primary resources to assist customers in-person and over the phone
- Train all front line staff to use Language Line Solutions as a secondary resource for in-person and phone interactions
- Provide onsite interpreter services or certified bi-lingual staff at community meetings to assist with language interpretation.

Customer Experience Improvements

- Online registration and payment portal
 - Payments received same-day as registration rather than months later
 - Ability to apply for exemption at the end of the registration workflow
 - Improved automation of back office registration processes
- Revised phone tree with improved call overflow capability
 - Leveraged existing phone system capabilities to streamline calls to overflow workgroup when wait times increase
- Automated phone payments via Interactive Voice Response (IVR)
 - Business tax renewals can bypass longer wait times by using the IVR function
 - Allows customer service staff to focus on inquiries rather than taking payments
- Self-service computers for new registrations in the 1st floor lobby

Appendix – List of Business Groups

Business and Community Groups:

- GREATER SAN JOSE HISPANIC CHAMBER OF COMMERCE
- HISPANIC CHAMBER OF COMMERCE SILICON VALLEY
- SILICON VALLEY BLACK CHAMBER OF COMMERCE
- THE SILICON VALLEY ORGANIZATION (SVO)
- VIETNAMESE AMERICAN CHAMBER OF COMMERCE
- SILICON VALLEY (SCORE)
- SILICON VALLEY LEADERSHIP GROUP
- SILICON VALLEY SMALL BUSINESS DEVELOPMENT CENTERS OF NORCAL (SBDC)
- CALIFORNIA APARTMENT ASSOCIATION (TRI-COUNTY DIVISION)
- SANTA CLARA COUNTY ASSOCIATION OF REALITORS
- DOWNTOWN BID ASSOCIATION
- JAPANTOWN BID ASSOCIATION
- VARIOUS CPA FIRMS AND TITLE COMPANIES

Small Business Advisory Task Force
Update on the Small Business Anti Displacement Strategy
Thursday September 19, 2019

- 1. Council Study Session planned for Friday September 27, 2019.**
- 2. Memo release anticipated Monday September 23, 2019.**

Key Points

Design Approach to date

- Examined other jurisdictions
- Extensive consultations with business, business groups and technical assistance providers
- Leveraging existing programs and partnerships
- Testing new services i.e. Access to Attorney advice

Key Components of Strategy

- Improve access to information & exchange between small business and city hall
- Modify and test new notification procedures to assist small business
- More proactive/visibility in Alum Rock area
- Rapid redeployment service under development
- Partnerships to be created with Banking & Finance Institutions

Roll Out

- Establish Pilot in Alum Rock Area: BART Ext + Affordable Housing
- Soft launch Mid-October
- Develop metrics
- Collaborate with VTA on mitigation program
- Build Data capability
- Return to City Council Summer 2020 with evaluation & extension