



# Memorandum

**TO:** COMMUNITY & ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Matt Cano  
Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** January 13, 2020

Approved

*Kin W. Wood*

Date

*Jan. 13, 2020*

**SUBJECT: CONTRACTING WITH LOCAL AND SMALL BUSINESSES IN FISCAL  
YEAR 2018 - 2019**

## RECOMMENDATION

Accept the annual report on City contracting with local and small businesses for FY 2018 - 2019.

## BACKGROUND

The analysis in this report is divided into contracts awarded by the Finance Department Purchasing Division, and construction/professional service (consultant) contracts awarded in the Capital Improvement Program (CIP) as tracked by the Public Works Department.

The Finance Department Purchasing Division is responsible for the procurement of goods, supplies, materials, equipment and service in accordance with Chapter 4.12 of the San Jose Municipal Code. Section 4.12.320 of the Municipal Code provides a preference for small and local businesses. A local business is defined as a business having either the principal business office or a satellite office with at least one (1) full time employee located in Santa Clara County. A small business is defined as a business that is a local business having thirty-five (35) or fewer total employees.

The Department of Public Works procures the largest number of CIP-related construction contracts. Other departments involved in procuring CIP-related construction contracts are the Department of Transportation and the Environmental Services Department.

The procurement of construction contracts is governed by the City Charter, as implemented through the San Jose Municipal Code. During FY 2018-19, the City Charter defined a major public works construction contract as one exceeding \$100,000 and generally required the City to

award such contracts to the lowest responsive and responsible bidder.<sup>1</sup> The procurement of minor public works construction contracts (those \$100,000 or less) was governed by the Chapter 14.04 of the San Jose Municipal Code. Importantly, during FY 2018-19, there were no local or small business preferences in the procurement of major or minor public works construction contracts.

The passage of Measure S on November 6, 2018 resulted in the City Charter definition of a major public works construction contract being increased to \$600,000, with an annual increase based on the Consumer Price Index. The addition of Title 27 to the Municipal Code that went into effect on October 24, 2019, codified the \$100,000 limit increase to \$600,000 as well as the addition of a local and small business preferences for construction contracts with an engineer estimate of \$600,000 or less.

The CIP consultant procurements are similar to any other professional service procurements in that preference points are given to qualified local and small business enterprises per Municipal Code Section 4.12.320(C). Although preference points can, and sometimes do, influence the outcome, CIP consultant procurements are predominately qualifications-based, and points awarded for experience, expertise, and project approach are the determining factors in selection.

## **ANALYSIS**

### ***Finance/Purchasing Awards***

As outlined in Table 1 below, in FY 2018-19, the estimated total annual dollars awarded by Finance Department Purchasing Division increased by 23% when compared to FY 2017-18, based on available reports. The estimated local market share for total dollars awarded increased to 33% of total dollars spent, or \$85.7 million, while estimated awards to small businesses that are local suppliers decreased slightly to 7% of total dollars awarded, or \$18.3 million. Most of the local business awards are for maintenance and repair services that typically require a local presence to meet the service delivery requirements of the City.

Not represented in the Table 1 figures below are the Procurement Card (P-Card) program statistics. The P-Card program is established to streamline small dollar purchases and reduce the acquisition period for products and services where a competitive process is not required. In FY 2018-19, there were over 50,000 P-Card transactions with a total spend of over \$14 million. Finance estimates the annual impact of the P-Card program to local merchants was approximately 28% in spend, totaling \$3.9 million.

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<sup>1</sup> There were some exceptions, such as for design-build contracts.

**Table 1: Finance/Purchasing Contracts and Purchase Orders**

	FY 15-16		FY 16-17		FY 17-18		FY 2018-19	
	\$ (in M)	%	\$ (in M)	%	\$ (in M)	%	\$ (in M)	%
All Suppliers	\$189.6	100%	\$193.0	100%	\$210.7	100%	\$259.3	100%
Local Suppliers	\$62.5	33%	\$65.6	34%	\$39.7	19%	\$85.7	33%
Small Suppliers	\$15.20	8%	\$15.4	8%	\$18.1	9%	\$18.3	7%
<b>Number of Awards</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
All Suppliers	2048	100%	1985	100%	1967	100%	2091	100%
Local Suppliers	593	29%	596	30%	251	15%	579	28%
Small Suppliers	164	8%	159	8%	139	7%	193	9%

The Purchasing Division continued to expand efforts to participate in business outreach events and forums to educate local businesses on how to do business with public agencies, how to respond to bids, and specifically, how to do business with the City of San José. Six events have been attended or are scheduled by the end of 2019, including: Success in Start-Up and Small Businesses (hosted by the San Jose Public Library Works); Access to Contract Opportunities for Growing Your Business (hosted by County of Santa Clara); 8<sup>th</sup> Summit on Entrepreneurship and Innovation (hosted by Business Owner Space and Work2Future); Certification & Capacity Building Summit 1 (hosted by Black Chamber of Commerce); Festiv’All Small Business Resource Fair (hosted by local chambers and community based organizations); and Business Diversity Fair (hosted by Santa Clara County). In addition, the City’s Vendor Guide on “Doing Business with the City of San Jose” was updated and is available in both hard and soft copy. Staff will continue work to research and pursue additional opportunities to participate in vendor fairs and small/local business events.

***CIP Construction Contract Data***

For this reporting cycle, Public Works projects are categorized as either “major” (over \$100,000) or “minor” (under \$100,000). As mentioned, with the recent Charter Changes and Municipal Code updates, this dollar threshold increased to \$600,000 on October 24, 2019. Future reports will reflect this change.

Currently, Public Works only tracks the local and small business (as defined by chapter 4.12 of the municipal code) statistics for major projects, but process changes have been implemented to capture local and small business statistics for both major and minor public works projects and will be reported starting in FY 2019-20. This data is collected through a voluntary form filled out by contractors during the bidding stage.

Table 2 below shows major public works contract activity for FY 2018-19, as well as the prior four fiscal years for comparison.

**Table 2: 5-Year Comparison of Major Public Works Dollars and Awards**

	FY 14-15		FY 15-16		FY 16-17		FY 17-18		FY 2018-19	
<b>Total Dollars Awarded</b>	\$83.2M		\$232.0M		\$167.8M		\$290.3		\$191.2	
Local Contractors	\$31.5	38%	\$33.8	15%	\$32.9	20%	\$158.4	55%	\$52.2	27%
Small Contractors	\$2.6	3%	\$11.6	5%	\$12.0	7%	\$8.2	3%	\$10.8	6%
<b>Total Contracts Awarded</b>	59		74		82		50		57	
Local Contractors	18	31%	27	36%	26	32%	13	26%	13	23%
Small Contractors	7	12%	13	18%	14	17%	7	14%	5	9%

During the last five fiscal years, the CIP has demonstrated fluctuations in the number of construction contracts awarded and dollars awarded, however, FY 2018-19 saw an increase in the number of contracts awarded with a substantial decrease in dollars awarded from prior fiscal year. The prior fiscal year is seen as an abnormality due to the award of two large Design Build Contracts (Headworks Project and Interim Four Gate Boarding Facility Project) totaling approximately \$137 million. The decrease in FY 2018-19 brings the total dollars awarded back in line with the five-year average (\$192.9 million).

In FY 2018-19, the program saw a five-year low in the number of contracts awarded to local and small business. Thirteen projects were awarded to local contractors; five projects were awarded to local contractors who are also small businesses. The total dollars awarded to local contractors (\$52.2 million) was just below the five-year average (\$60 million), with the total dollars awarded to small contractors (\$10.8 million) being just above the five-year average (\$9.0 million).

Chart 1 below shows the construction contract award data from Table 2 graphically. As illustrated, the number of overall contract awards increased with a decrease in local and small awards.

**Chart 1: 5-Year Comparison of CIP Construction Contract Awards**

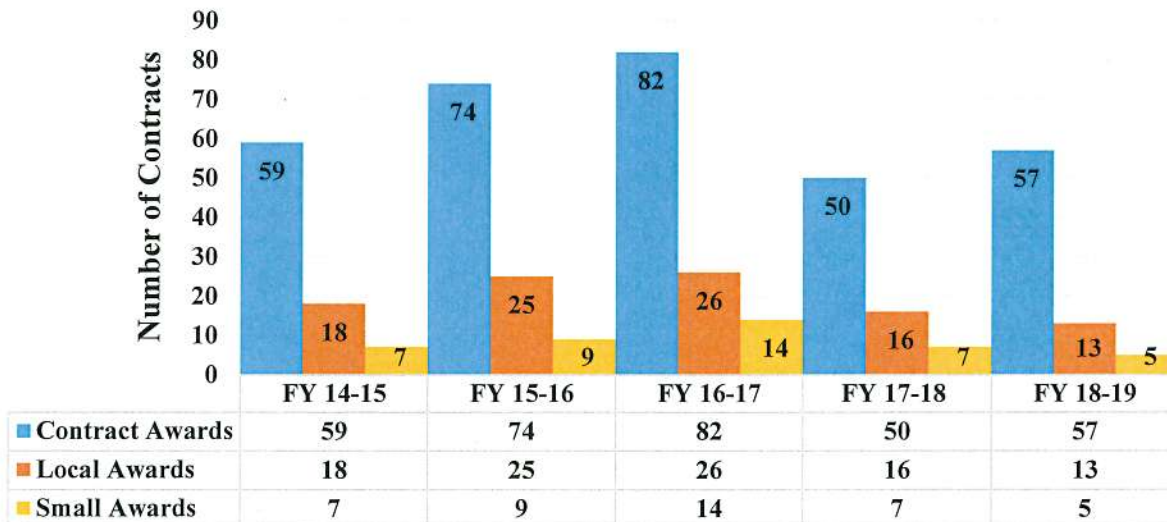
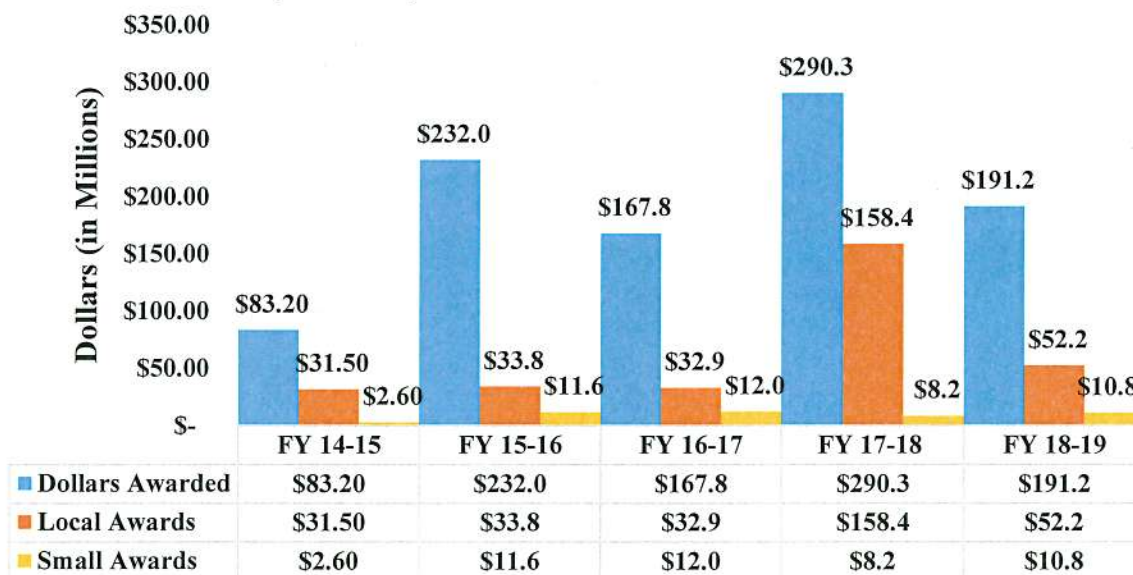


Chart 2 below shows the construction dollars awarded for the past five fiscal years. As illustrated, the proportion of dollars to local contractors decreased significantly from prior fiscal year and small contractors has remained consistent.

**Chart 2: 5-Year Comparison of CIP Construction Dollar Awards**



***CIP Consultant Contract Data***

In addition to administering procurements for its own CIP consultants, Public Works partners with the Environmental Services RWF CIP for consultant procurements, and also collects CIP consultant local/small contract award data from the Departments of Transportation, Environmental Services, Park, Recreation, Neighborhood Services and the Airport.

Table 3 below shows CIP consultant contract activity for FY 2018-19, as well as the prior four fiscal years for comparison.

**Table 3: 5-Year Comparison of CIP Consultant Contract Dollars and Awards**

	FY14-15		FY15-16		FY16-17		FY17-18		FY 2018-19	
<b>Total Dollars Awarded</b>	\$24.1M		\$74.6		\$31.8		\$34.8		\$34.7	
Local Consultants	\$13.8	57%	\$66.3	89%	\$22.7	71%	\$11.7	34%	\$20.8	60%
Small Consultants	\$4.4	18%	\$1.3	2%	\$2.7	8%	\$1.2	3%	\$15.9	46%
<b>Total Contracts Awarded</b>	32		18		26		22		26	
Local Consultants	19	59%	13	72%	16	62%	11	50%	18	69%
Small Consultants	8	25%	2	11%	6	23%	4	18%	11	42%

Consultant procurement activity tends to vary depending on project resource needs and the longevity of prior contracts. For FY 2018-19, the number of consultant contract awards (26) was within range of the previous fiscal years, but remained consistent with a cyclical pattern of fluctuation.

In FY 2018-19 the percentage of local consultant contract awards (69%) and the percentage of dollars awarded to local consultants (60% = \$20.8 million) increased significantly from the prior fiscal year. The percentage of small consultant firms (who are also local per Muni Code definition) contract awards (42%) and the percentage of dollars awarded (46% = \$15.9 million) was the highest it has been the last five fiscal years. This reflects that local and small consulting firms remain competitive and are awarded a significantly large portion of the CIP consulting opportunities.

Chart 3 shows the CIP consultant contract award data from Table 3 graphically. As mentioned above, there is annual variability to the number of consultant contracts procured in the CIP. While the awards to local and small firms fluctuate as well, they are significantly present each year.

**Chart 3: 5-Year Comparison of CIP Consultant Contract Awards**

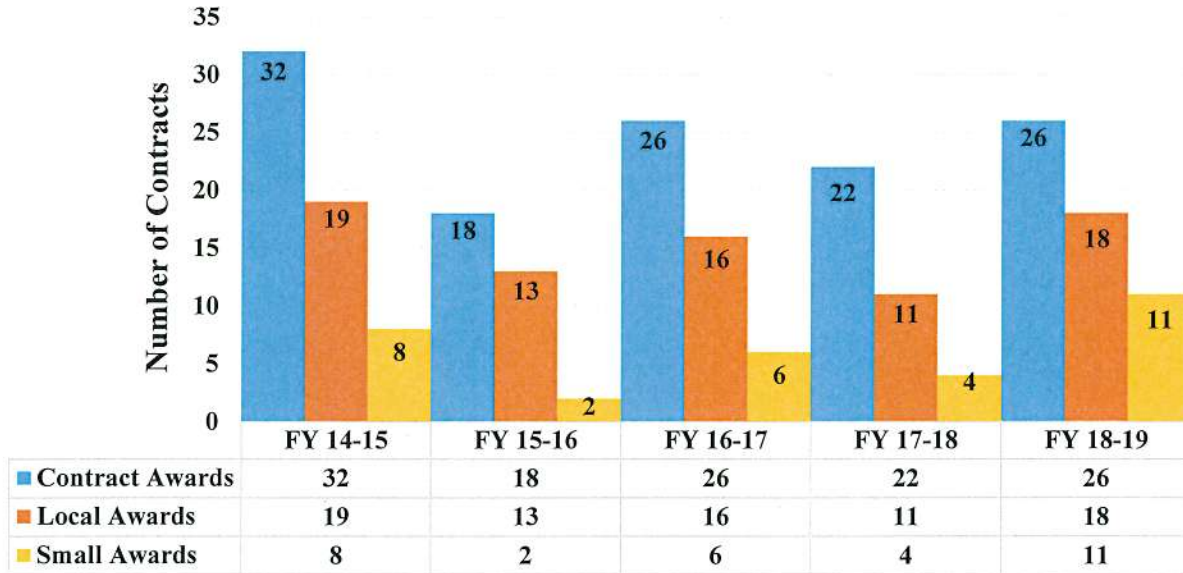
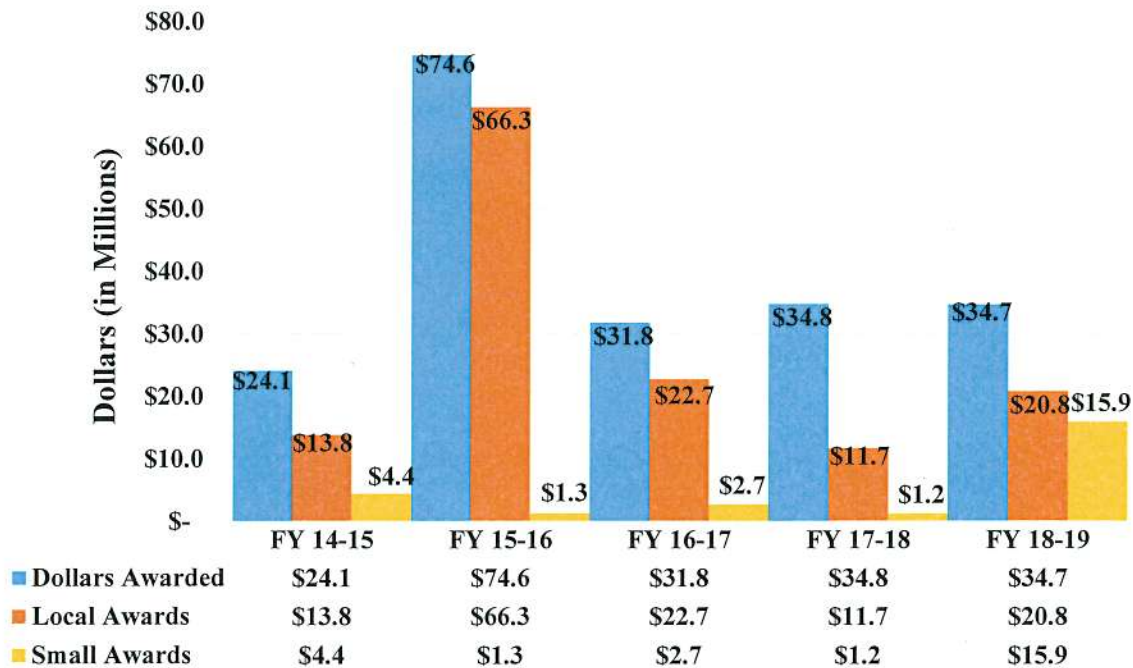


Chart 4 below shows the number of CIP consultant dollar awards for the past five fiscal years. Again, there is annual variability to the amount of consultant contracts procured in the CIP, local and small firms are consistently awarded a meaningful portion of the available dollars.

**Chart 4: 5-Year Comparison of CIP Consultant Dollar Awards**



### *Efforts to increase small/local construction contractors*

The department recognizes that the number of projects awarded to local and small businesses has declined over the past few years, while the dollar amounts awarded have remained relatively steady, with the exception of the anomaly in Fiscal Year 2017-2018. While the reasons for the decline are not clear, they are also not surprising. Prior to last fiscal year, a clear and comprehensive program to support local and small business participation on City construction projects had not been in place. Therefore, the success, or failure, of the city in awarding construction projects to local and small businesses has been based on completely external factors outside of the City's control. 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) which was approved by the Mayor and City Council on October 8, 2019 is meant to specifically address this challenge through a combination of education, outreach, and policy change

#### ***Public Works Contracting Program***

On October 8, 2019, Council approved completion of Council Priority #3- Disadvantaged Business Enterprises<sup>2</sup>. Work continues on the Council approved program- Public Works Contracting Program (PWCP). The PWCP focuses on education, outreach, and support through the following:

- **Public Works Academy**  
The Public Works Academy is designed to inform contractors of contract opportunities through "Opportunity Awareness Events" as well as educate them on how to manage a public works contract through "Construction Contracting Seminars". In 2019, The Public Works Department hosted six opportunity awareness events. These events were attended by 80 vendors of which 70% were located within Santa Clara County. The Department also hosted two sets of educational seminars. These seminars were attended by 45 vendors of which 80% were local businesses. These programs are continuing with two opportunity awareness event scheduled for early Spring 2020 and a series of Construction Contracting Seminars starting April 2020.
- **Minor Contract Prequalification Program**  
The Minor Contract Prequalification Program is designed to offer opportunities to informally bid on minor public works contracts. Currently, unlike major public works construction contracts, minor public works contracts are not subject to the City Charter's bidding requirements and can be informally bid by a selected group of contractors who meet the bid requirements. This prequalification processes

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<sup>2</sup> <https://sanjose.legistar.com/LegislationDetail.aspx?ID=4145342&GUID=A7CE1A76-14CE-425F-946E-1BD73A69424D>



allows contractors to take care of the City's contractual requirements for projects in advance of bidding so they can be better prepared to quickly take advantage of opportunities. This program launched in early 2019 with the establishment of its first prequalification pool for minor street projects. Since then, the department has added five new prequalification pools which include electrical, mechanical, plumbing, general building and general parks contractors. In total, the six established pools consist of 27 pre-qualified contractors of which 59% are local businesses and 37% are local and small businesses. The Public Works Academy's Construction Contracting Seminars are tied into this program as any contractor who completes the seminars will have a portion of the experience requirement waived.

- **Local and Small Business Preference**

As mentioned, on October 24, 2019, Council approved municipal code changes went into effect. One of these changes was the requirement that the Director of Public Works to give a 2.5% preference for local contractors and a 2.5% preference for small and local contractors on all public works contracts that are \$600,000 or less.

***Local Chambers Business Grant Program***

The Local Chambers Business Grant Program has been established as part of the City's general outreach plan in response to the 2018-2019 Mayor's June Budget Message. The grant was issued to the Hispanic Chamber of Commerce, the Silicon Valley Black Chamber of Commerce, and the Silicon Valley Vietnamese American Chamber of Commerce in the amount of \$25,000 each. Using the grant funding, the Chambers will provide City procurement workshops throughout 2020 to educate perspective businesses on the requirements of doing business with the City, as well as one on one counseling to directly assist businesses.

***Performance Measures***

The program will continue to track various data points in order to establish benchmarking measures. Since the department currently does not have a robust historical data set, the success of the program will be evaluated through contractor participation in the Public Works Academy, participation in the Minor Prequalification pools with the end result of contracts awarded to participants.

In addition to tracking local/small business participation, Public Works will also start obtaining additional program participation data such as Women-owned Business Enterprise (WBE), Minority-owned Business Enterprise (MBE), Disadvantage Business Enterprise (DBE), Lesbian, Gay, Bisexual, and Transgender Business Enterprise (LGBTBE) and Veteran Owned Small Business (VOSB). Due to legal constraints, the City will not be able to make any specific procurement decisions based on this information; however, this information gives the City valuable data on the types of businesses being awarded City contracts. It is anticipated that this data will begin to be collected in the near future and reported on the next Citywide Capital Improvement Program Status Report in late 2020.

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A number of recommendations from the Small Business Advisory Task Force (SBATF) were incorporated into the Public Works Contracting Program which was approved by the Mayor and City Council on October 8, 2019. The program will also continue to coordinate with the SBATF to obtain feedback on the program's progress as well as provide an opportunity to improve small business outreach and communication of contract opportunities and Public Works Academy events. Additionally, as directed by Council on October 8, 2019<sup>2</sup> in response to Staff's recommendation regarding Council Priority #3: Citywide Contracting Program Update<sup>2</sup>, the program will continue to coordinate with other City departments to obtain contact information of registered businesses to improve outreach and communication of contract opportunities for small businesses.

***Conclusion***

Considering the opportunities available to local and small businesses to contract with the City, they are typically very successful competing for contracts. It is important to note that many of the City's CIP construction and consultant contracts are large-scale and suited for larger and well-resourced firms. However, staff will continue to seek opportunities to provide smaller project offerings directly to local/small construction firms using the minor (< \$600,000) contract process and by facilitating their ability to serve as subcontractors on larger projects. The Finance and Public Works Departments will continue to track local and small business data in City contract awards in an effort to keep the CED Committee advised of participation levels.

**COORDINATION**

This memorandum was coordinated with the Departments of Transportation, Environmental Services, Parks, Recreation and Neighborhood Services, and the Airport.

/s/  
MATT CANO  
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/s/  
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Director of Finance

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