Brian J. Stiger
Director

COUNTY OF LOS ANGELES
DEPARTMENT OF
CONSUMER AND BUSINESS AFFAIRS

Members of the Board

Hilda L. Solis
Mark Ridley-Thomas
Sheila Kuehl
Don Knabe
Michael D. Antonovich

"To Enrich Lives Through Effective and Caring Service"

Date: June 23, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Brian J. Stiger
Director

REPORT WITH RECOMMENDATIONS TO DEVELOP AND IMPLEMENT A FOUR-YEAR SMALL BUSINESS, DISABLED VETERAN-OWNED BUSINESS AND SOCIAL ENTERPRISE UTILIZATION PLAN (ITEM NO. 7, AGENDA OF JANUARY 12, 2016)

On January 12, 2016, your Board adopted a motion by Supervisors Mark Ridley-Thomas and Chair Hilda Solis that directed the Director of the Department of Consumer and Business Affairs (DCBA), in consultation with other relevant departments, to assess and report back in writing with recommendations on how to develop and implement a four-year plan to grow and strengthen Local Small Business Enterprises (LSBE), Disabled Veteran-Owned Business Enterprises (DVBE) and Social Enterprises (SE) through increased contracting and procurement. The motion directed DCBA to develop a plan to attain 25% and 3% (25/3) utilization of LSBEs and DVBEs, respectively, by 2020. In addition, the motion directed DCBA to develop a centralized certification process for LSBEs, DVBEs and to create a new certification for SEs.

DCBA provided a report back to your Board on May 24, 2016, with recommendations on how to implement a plan to achieve this utilization goal. Please allow this correspondence to serve as a supplemental report on the status of the LSBE, DVBE and SE ordinances.

STATUS UPDATE

In order to reach the 25/3 utilization goal and increase the number of certified businesses in the County, DCBA recommends several changes to the LSBE, DVBE and SE ordinances for your Board's consideration.

Consumer Services
500 W. Temple Street, Room B-96 • Los Angeles, CA 90012-2706
Telephone (800) 593-8222 • (213) 974-1452
Fax (213) 687-1137 • Website: dcba.lacounty.gov

Small Business Services
1100 North Eastern Ave, Los Angeles, CA 90063
Telephone (323) 881-3964
Fax (323) 415-8521 • Website: osb.lacounty.gov

Since our last report to your Board, DCBA has worked with County Counsel and the Internal Services Department (ISD) to revise the relevant ordinances. The following recommendations are made after considering and incorporating feedback from the utilization workgroups, outside stakeholders, ISD and County Counsel.

RECOMMENDED CHANGES TO ALL PREFERENCE PROGRAM ORDINANCES

- Summary of Changes
  - Authorize DCBA as certifying department
  - Raise price preference from 8% to 15%

Authorize DCBA as Certifying Department

On January 13, 2015 your Board approved the transfer of the Office of Small Business (OSB) from ISD to the newly re-named Department of Consumer and Business Affairs (DCBA). DCBA's Small Business Services (SBS) unit's (formerly OSB) primary goal is to increase the number of certified small businesses in LA County and to connect those businesses with County procurement opportunities. The responsibility for certifying businesses transferred to DCBA from ISD with the unit. With this transfer of duties, it is necessary to update the ordinance language which still identifies ISD as the authorized certifying department.

Increase Price Preference

DCBA recommends that your Board adopt the recommendations outlined in the Chief Executive Officer's August 19, 2015 report and increase the current 8% price preference to the proposed 15%. Pursuant to the CEO's report, analysis revealed the LSBE preference percentage over low bids was approximately $208,834 from 2012-15; therefore, according to that report, an increase to 15% would not result in a significant financial impact to the County. Additionally, with only 27 DVBEs, an increase in the preference percentage would similarly not result in significant financial impact. Currently, there are 19 known SE firms; any preference applied would only result in negligible financial impact to the County while providing these businesses with a competitive edge.

RECOMMENDED CHANGES TO LSBE AND DVBE ORDINANCES

- Summary of Changes
  - Raise cap on preference from $50,000 to $150,000
  - Expand accepted certifications (Inclusion Policy)

Changes to Preference Cap

In your Board's January 12, 2016 motion, DCBA was directed to request Board consideration of ordinance amendments to remove the $50,000 cap on price preferences.

Based on the workgroup's assessment, DCBA recommends that the County raise the cap on preferences from $50,000 to $150,000 and monitor the impact of the increase. While there may be a limit on the size and type of contract that an LSBE can submit a bid, DVBEs and SEs have no employee/revenue size limitations and could potentially bid on much larger contracts than LSBEs. For example, awarding a 15% price preference on a $5 million contract would be $750,000; aggregated over several contracts, this could result in significant fiscal impact to the County. As such, DCBA recommends including a cap on the monetary value of the price preference applied to these contracts.

Expand Accepted Certifications

There are approximately 1,300 small businesses currently certified with the County. In order to reach the 25% goal, each of those businesses would have to be awarded over $769,000 in County contracts. To reach the LSBE and DVBE utilization goals, DCBA will need to increase the pool of qualified vendors competing for eligible contracts. To do this, DCBA recommends changing the prerequisites for certification.

Currently, in order to certify, a small business must first be certified with the California State Department of General Services (DGS). DCBA recommends maintaining this as one way to qualify for certification, but expanding the certifications accepted from other agencies. For example, DCBA will accept small businesses certified by the Los Angeles County Metropolitan Transportation Authority (MTA), but will ensure that the business conforms to DGS' definition of small business before certifying. Similarly, a DVBE must be certified by the State or the U.S. Department of Veteran Affairs. By expanding the list of accepted certifications, DCBA can obtain vendor lists from other agencies to identify potential LSBE and DVBE certification candidates, while at the same time maintaining the consistency of the applicable "small business" or "disabled veteran business" definition.

RECOMMENDED CHANGES TO THE TRANSITIONAL JOB OPPORTUNITIES PREFERENCE (TJOP) PROGRAM ORDINANCE

- Summary of Changes
  - Change name from "Transitional Job Opportunities Preference Program" to "Social Enterprise Preference Program"
  - TJOP becomes a subset of "Social Enterprise"
    - This does not eliminate TJOP incentives; it codifies the certification process for transitional employers
  - Expand certification to any entity that has been in operation for at least one year, providing transitional or permanent employment to an underemployed or difficult-to-employ workforce and/or providing social, environmental or human justice services
  - Implement $150,000 cap on price preference

Change Ordinance Name

DCBA was tasked with recommending modifications to the TJOP program ordinance and developing a social enterprise certification.

Your Board has adopted a broad definition of "social enterprise" which includes, in pertinent part:

> …non-profit and for-profit **businesses whose primary purpose is the common good and which, "use the methods and disciplines of business and the power of the marketplace to advance their social, environmental and human justice agendas** …"

Based on the above definition, it was determined that SE is an umbrella designation under which TJOP falls. Accordingly, it is recommended that the former TJOP ordinance be amended to create a new Social Enterprise Preference (SEP) program ordinance. Under the new program, TJOPs will be certified as social enterprises and receive the same incentives as LSBEs and DVBEs.[1]

Expand Businesses Eligible for Certification

Based upon your Board's social enterprise definition, in addition to certifying TJOP enterprises, DCBA recommends that your Board expand the certification to include businesses with social missions, that: permanently employ individuals with barriers to employment (homeless, ex-incarcerated, etc); are certified green; or provide other social services.

Changes to Preference Cap

The previous TJOP ordinance did not have a cap on awarded price preference; however, with the expansion of the types of businesses eligible for certification and the push to increase SE utilization, DCBA recommends implementing a cap. As addressed above, this is based on the workgroup's assessment that, while there may be a limit on the size and type of contract that an LSBE can submit a bid, DVBEs and SEs have no employee/revenue size limitations and could potentially bid on much larger contracts than LSBEs, which could have a significant fiscal impact on the County.

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[1] Of note, DVBEs and SEs will not qualify for prompt payment at this time since workgroup members were concerned about the increased workload to staff processing these invoices. DVBE and SE awards will be monitored to determine whether prompt payment can be extended to those groups in the future.

PROPOSED ORDINANCES

Attached as, Appendix A, are draft ordinances prepared by County Counsel which DCBA recommends adopting. The proposed ordinances, which have been attached for discussion purposes only, have not been approved as to form by County Counsel. These drafts include the recommended changes outlined above which are based on the workgroup's assessment and recommendations, feedback from ISD, County Counsel and other stakeholder groups. Following your Board's consideration of, and action on, the recommendations found in the County Small Business and Social Enterprise Utilization Plan (and outlined above), County Counsel will finalize the ordinances in accordance with your Board's direction and forward the ordinances to DCBA or the Executive Office for placement on your Board's agenda for introduction.

Should you have any questions or need additional information, please contact me at your earliest convenience.

c: Chief Executive Office
County Counsel
Internal Services Department
Public Works
Community and Senior Services
Department of Public Social Services
Public Health

ORDINANCE NO._____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to Local Small Business Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.204.010 is hereby amended to read as follows:

2.204.010 Introduction.

The ~~b~~Board of ~~s~~Supervisors finds that it is of benefit to the ~~c~~County of Los Angeles to promote and facilitate the fullest possible participation by all citizens in the affairs of the ~~c~~County in every way possible. It is also essential that opportunities be provided for full participation in our free enterprise system by small business enterprises. Further, it is the policy of the ~~b~~Board that the ~~c~~County should aid and assist, to the maximum extent possible, the interests of local small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for purchase of goods or services for the ~~c~~County be placed with such enterprises.

SECTION 2. Section 2.204.020 is hereby amended to read as follows:

2.204.020 Purpose.

The ~~c~~County of Los Angeles ~~l~~Local ~~s~~Small ~~b~~Business ~~e~~Enterprise ~~p~~Preference ~~p~~Program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities for local small businesses within the ~~c~~County of Los Angeles. The program priorities were developed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure all businesses,

including local small businesses, are provided equal opportunities in ~~c~~County purchasing and contracting activities.

SECTION 3. Section 2.204.030 is hereby amended to read as follows:

2.204.030 Definitions.

For the purpose of this ~~c~~Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

A. "County" shall mean the ~~c~~County of Los Angeles or any public entities for which the ~~b~~Board of ~~s~~Supervisors is the governing body.

B. "Department" shall mean the ~~c~~County department, entity, or organization responsible for the solicitation.

C. "Local ~~s~~Small ~~b~~Business ~~e~~Enterprise" or "LSBE" shall mean:

1. A business which is certified by the State of California as a small business and has had its principal ~~office~~place of business located in Los Angeles County for at least one (1) year; or

2. In federally funded County solicitations subject to the federal restriction on geographical preferences, a business which is certified as small by the ~~SBA~~federal Small Business Administration or which is registered as small on the federal ~~Central Contractor Registration~~System for Award Management ("SAM") data base; or

3. A business certified as a small business enterprise with other certifying agencies pursuant to the Department of Consumer and Business Affair's ("DCBA") inclusion policy that (a) has its principal place of business located in Los

Angeles County and (b) has revenues and employee sizes that meet the State's Department of General Services requirements.

4. In addition, the standards shall provide that the local small business enterprise shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a commercially useful function, as defined below:

(a) A local small business enterprise is deemed to perform a commercially useful function if the business does all of the following:

(i) Is responsible for the execution of a distinct element of the work of the contract.

(ii) Carries out its obligation by actually performing, managing, or supervising the work involved.

(iii) Performs work that is normal for its business services and functions.

(iv) Is responsible with respect to products, inventories, materials, supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing if applicable, and making payment.

(v) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

(b) A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or

project through which funds are passed in order to obtain the appearance of a local small business enterprise.

D. "SBA" shall mean the federal Small Business Administration.

E. "Solicitation" shall mean the ~~c~~County's process to obtain bids or proposals for goods and services.

SECTION 4. Section 2.204.040 is hereby amended to read as follows:

2.204.040 Administration.

The ~~Internal Services Department (ISD)~~ The DCBA with the assistance of County Counsel and the Internal Services Department ("ISD"), is authorized and shall issue interpretations of the provisions of this ~~c~~Chapter, and shall issue written instructions on the implementation and ongoing administration of this ~~c~~Chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Section 2.204.050 is hereby amended to read as follows:

2.204.050 Certification as a ~~l~~Local ~~s~~Small ~~b~~Business ~~e~~Enterprise.

The ~~Department of Consumer and Business Affairs~~DCBA shall be responsible for verifying that a local small business is already certified as a small business by the State of California or other certifying entity pursuant to DCBA's inclusion policy ~~and~~ that (a) ~~the business~~ has its principal place of business~~office~~ located in Los Angeles County~~.~~ and (b) has revenues and employee sizes that meet the State's Department of General Services requirements. The ~~Department of Consumer and Business Affairs~~DCBA shall

certify local small business enterprises and maintain records of the certified businesses and their participation in County purchasing and contracting.

SECTION 6. Section 2.204.051 is hereby amended to read as follows:

2.204.051 Certification as a Local ~~s~~Small ~~b~~Business ~~e~~Enterprise in certain federally funded ~~c~~County solicitations.

Where geographic preferences are precluded by federal funding restrictions, ~~County departments~~DCBA shall be responsible for verifying that a local small business enterprise ~~is certified by the SBA or is registered as small on the federal Central Contractor Registration data base~~meets the federal small business criteria for number of employees and/or revenue and maintains an active registration as small business in the SAM data base.

SECTION 7. Section 2.204.060 is hereby amended to read as follows:

2.204.060 Responsibilities and standards.

A. In order to facilitate the participation of local small business enterprises in County purchases of goods and services, County departments shall provide for local small business enterprise preferences in their purchase of goods and services where responsibility and quality are equal.

B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to Section 8 below, the preference to the local small business enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by ~~ISD~~the DCBA.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, subject to Section 8 below, the preference to the local small business enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the cost/price component of the evaluation method determined according to the instructions issued by ~~ISD~~the DCBA.

D. The local small business enterprise preference under subsections B and C of this section shall not exceed one-hundred and fifty thousand dollars ($150,000.00) for any one solicitation and award determination.

E. In order for a local small business enterprise to be eligible to claim the preference, the business must request the preference in the solicitation response.

F. When an applicable statute limits the preference to the local small business enterprise at an ~~five percent (5%) or some other~~ amount less than ~~eight~~fifteen percent (~~8~~15%), the applicable statute shall determine the preference amount.

G. In no case shall the Local Small Business Enterprise Preference Program price, or scoring preference be combined with any other County preference program to exceed fifteen percent (15%) of the lowest responsible bid meeting specifications.

SECTION 8. Section 2.204.070 is hereby amended to read as follows:

2.204.070 Exclusions.

The local small business enterprise preference shall not be given for the following ~~c~~County purchases:

A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section ~~4.404~~4.6.0 or a successor provision.

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.

D. A non-agreement purchase with a value of less than five thousand dollars ($5,000~~.00~~) pursuant to the Los Angeles County Purchasing Policy Manual, Section A-0300~~0~~ or a successor provision.

E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government, including those relating to participation in a contract by a minority or women business enterprise, as a condition of the receipt of the federal funds.

F. A contract for which federal, State, or local laws limit or prohibit application of a local small business enterprise preference.

SECTION 9. Section 2.204.090 is hereby amended to read as follows:

2.204.080 Violations and Sanctions.

A. The information furnished by each ~~solicitation respondent~~business requesting a local small business enterprise preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a local small business enterprise for the purpose of this ~~c~~Chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a local small business enterprise.

D. A business which has obtained certification as a local small business enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision 1 of subsection D of this Section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the State~~,~~ ~~Department of Consumer and Business Affairs~~ and DCBA ~~and ISD~~ of this information prior to responding to a solicitation or accepting a contract award.

SECTION 10. Section 2.204.090 is hereby amended to read as follows:

2.204.090 ~~**Appeals for reconsideration of local small business enterprise certification.**~~**Review of program eligibility.**

The ~~Department of Consumer and Business Affairs~~DCBA is authorized to ~~will~~ investigate any valid complaint of eligibility received by the County concerning the ~~l~~Local ~~s~~Small ~~b~~Business ~~e~~Enterprise ~~p~~Preference ~~p~~Program.

SECTION 11. Section 2.204.100 is hereby amended to read as follows:

2.204.100 **Applicability.**

This ~~c~~Chapter shall apply to all solicitations issued sixty (~~9~~60) days after the effective date of the ~~o~~Ordinance codified in this ~~c~~Chapter.

[2204010PSCC]

ORDINANCE NO.

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to Disabled Veteran Business Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 3. Section 2.211.030 is hereby amended to read as follows:

2.211.030 Definitions.

For the purpose of this ~~c~~Chapter, the following words and phrases are defined and shall be construed as having the following meanings:

A. "County" shall mean the County of Los Angeles, or any public entities for which the Board of Supervisors is the governing body;

B. "Department" shall mean the County department, entity, or organization responsible for the solicitation; ~~and~~

C. "Disabled Veteran Business Enterprise" or "DVBE" shall mean:

1. A business which is certified by the State of California as a disabled veteran business enterprise; or

2. A business which is verified as a service-disabled veteran-owned small business by the Veterans Administration.

3. A business certified as DVBE with other certifying agencies pursuant to the Department of Consumer and Business Affairs's ("DCBA") inclusion policy that meets the criteria set forth by the agencies in subsection C(1) or C(2), above.

D. "Solicitation" shall mean the County's process to obtain bids or proposals for the purchase of goods and services.

SECTION 4. Section 2.211.040 is hereby amended to read as follows:

2.211.040 Administration.

The ~~Internal Services Department ("ISD")~~ The DCBA with the assistance of County Counsel and the Internal Services Department ("ISD"), shall issue interpretations of the provisions of this Chapter, and ~~ISD~~ shall issue written instructions on the implementation and ongoing administration of this Chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Section 2.211.050 is hereby amended to read as follows:

2.211.050 Certification.

~~Each department conducting a solicitation is responsible for verifying that a contractor is a disabled veteran business enterprise as defined in this chapter.~~

The DCBA shall be responsible for verifying that a disabled veteran business enterprise is currently certified by the State of California, by the U.S. Department of Veteran Affairs, or as determined by DCBA's inclusion policy that meets the criteria set forth by the agencies in subsection C(1) or C(2), above. The DCBA shall certify disabled veteran business enterprises and maintain records of the certified businesses and their participation in County purchasing and contracting.

SECTION 6. Section 2.211.060 is hereby amended to read as follows:

2.211.060 Responsibilities and standards.

A. In order to facilitate the participation of disabled veteran business enterprises in County purchases of goods and services, departments shall provide for disabled veteran business enterprise preferences in their solicitations.

B. In order for a disabled veteran business enterprise to be eligible to claim the preferences, the business must request the preference in the solicitation response.

C. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to ~~subsections E and F,~~ Section 7 below, the preference to a disabled veteran business enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bid meeting specifications, determined according to the implementation instructions issued by ~~ISD~~the DCBA.

D. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to price, subject to ~~subsections E and F,~~ Section 7 below, the preference to the disabled veteran business enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the cost/price component of the evaluation method, determined according to the implementation instructions issued by ~~ISD~~the DCBA.

E. The disabled veteran business enterprise preference under subsections C and D, above, shall not exceed one-hundred and fifty thousand dollars ($150,000) for any one solicitation and award determination.

F. In no case shall the disabled veteran business enterprise preference program price, or scoring preference be combined with any other County preference program to exceed ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bid meeting specifications.

SECTION 7. Section 2.211.070 is hereby amended to read as follows:

2.211.070 Exclusions.

The disabled veteran business enterprise preference shall not be given for the following County purchases:

A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization;

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal ~~m~~Manual, ~~s~~Section ~~4.4~~04.6.0 or a successor provision;

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, ~~s~~Section P-2810 or a successor provision;

D. A non-agreement purchase with a value of less than five thousand dollars ($5,000) pursuant to the Los Angeles County Purchasing Policy Manual, ~~s~~Section A-0300 or a successor provision;

E. A contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government, including those relating to participation in a contract by a minority or women business enterprise, as a condition of the receipt of the federal funds; and

F. A contract for which federal, ~~s~~State, or local laws limit or prohibit application of a disabled veteran business enterprise preference.

SECTION 8. Section 2.211.080 is hereby amended to read as follows:

2.211.080 Violations and Sanctions.

A. The information furnished by each solicitation respondent requesting a disabled veteran business enterprise preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently

obtaining or retaining or attempting to obtain or retain certification as a disabled veteran business enterprise for the purpose of this Chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a disabled veteran business enterprise.

D. A business which has obtained County certification as a disabled veteran business enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's cost would have been if the contract had been properly awarded;

2. In addition to paying the amount described in subdivision 1 of subsection D, of this ~~s~~Section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as result of a change in their status would no longer be eligible for certification, and fails to notify the ~~s~~State~~,~~ and DCBA ~~and County~~ of this information prior to responding to a solicitation or accepting a contract award.

SECTION 9. Section 2.211.090 is hereby amended to read as follows:

2.211.090 Review of program eligibility~~ of disabled veteran business enterprise certification~~.

The ~~Department of Consumer and Business Affairs~~DCBA ~~will~~ is authorized to investigate any valid complaint of eligibility received by the County concerning the Disabled Veteran Business Enterprise Preference Program.

SECTION 10. Section 2.211.100 is hereby amended to read as follows:

2.211.100 Applicability.

This Chapter shall apply to all solicitations issued ~~ninety~~ sixty (~~9~~60) days after the effective date of the ~~o~~Ordinance codified in this ~~c~~Chapter.

[2211010PSCC]

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the Social Enterprise Preference Program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.205.010 is hereby amended to read as follows:

2.205.010 Introduction.

The Board of Supervisors finds that it is of benefit to the County of Los Angeles to promote and facilitate ~~transitional job opportunities for individuals who are homeless,~~ businesses that distinguish themselves by accounting for their measurable social, public health and environmental impact. ~~Individuals who have not worked for an extended period of time face considerable barriers when trying to re-enter the workforce. Transitional employment provides people who are the hardest to employ with opportunities to develop job and social skills that are necessary to succeed in the workplace.~~ Social Enterprises, which include ~~N~~nonprofit and for-profit businesses ~~with transitional employment programs~~often incur higher ~~overhead~~ operating costs ~~than other businesses due to the need for increased supervision, counseling, and training of the hardest to employ~~providing supportive services. Therefore, Social Enterprises ~~such agencies~~ are at a competitive disadvantage in obtaining County contracts, in which estimated cost is a significant factor.

SECTION 2. Section 2.205.020 is hereby amended to read as follows:

2.205.020 Purpose.

The County of Los Angeles ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program is a race and gender-neutral program designed to establish a purchasing and contracting preference for ~~nonprofit organizations~~certified Social Enterprises~~which~~ that provide transitional and permanent employment ~~jobs~~, to a Transitional Workforce or provide social, environmental and/or human justice services. ~~to the long-term unemployed in the execution of their work under a purchase order or contract with the County of Los Angeles.~~ The ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program is designed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure that all businesses, including ~~nonprofit businesses~~Social Enterprises ~~that provide transitional employment services,~~ are provided equal opportunities in ~~c~~County purchasing and contracting activities.

SECTION 3. Section 2.205.030 is hereby amended to read as follows:

2.205.030 Definitions.

For the purpose of this ~~c~~Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

A. "County" shall mean the County of Los Angeles or any public entities for which the ~~b~~Board of ~~s~~Supervisors is the governing body.

B. "Department" shall mean the ~~c~~County department, entity, or organization responsible for the solicitation.

C. "Contractor" shall mean any person, firm, corporation, partnership, or any combination thereof, which submits a bid or proposal or enters into a contract with the County of Los Angeles.

D. "Homeless" shall mean a person sleeping in a place not meant for human habitation, or "residing" in an emergency shelter, transitional housing, or other supportive housing program or those who are homeless under the individual County department's definition.

E. "Social Enterprise(s)" shall include nonprofit and for-profit businesses whose primary purpose is the "common good" and which, "use the methods and disciplines of business and the power of the marketplace to advance their social, environmental and human justice agendas, wherein the organization that applies commercial strategies to maximize improvements in human and environmental well-being, " that may " include maximizing social impact rather than profits for external shareholders;" and has been certified as a social enterprise as provided for in this Chapter.

F. "Social Enterprise Preference Program" shall include:

1. A business that qualifies as a Social Enterprise and has been in operation for at least one (1) year providing transitional or permanent employment to a Transitional Workforce or providing social, environmental and/or human justice services; and

2. A business that is certified by the DCBA as a Social Enterprise.

~~E.~~G. "Solicitation" shall mean the ~~c~~County's process to obtain bids or proposals for goods and services.

~~F.~~H. "Supportive services" shall mean services including, but not limited to, counseling services, individual case management, pre-employment job readiness training, daily on-the-job monitoring of participants~~ while on the job~~, provision of unsubsidized competitive employment opportunities, and assistance in applying for, obtaining, and maintaining unsubsidized competitive employment.

~~G~~I. "Transitional workforce employer" shall mean a ~~nonprofit organization that provides transitional jobs for the long-term unemployed and has been certified as a transitional employer as provided in this chapter.~~Social Enterprise that provides transitional jobs.

~~H~~J. "Transitional job" shall mean short-term or long-term, wage-paying, subsidized or non-subsidized employment that combines real work, skill development, and supportive services to help ~~participants~~a transitional workforce overcome barriers to employment and transition to unsubsidized competitive employment.

K. "Transitional Workforce" shall mean those underemployed or hard-to-employ persons that may be homeless, formerly incarcerated, or those who either have not worked for an extended period of time or face significant barriers to employment.

SECTION 4. Section 2.205.040 is hereby amended to read as follows:

2.205.040 Administration.

The ~~Chief Executive Officer~~Department of Consumer and Business Affairs ("DCBA") with the assistance of County Counsel, and the Internal Services Department

("ISD"), ~~and the Equal Employment Compliance Officer,~~ shall issue interpretations of the provisions of this ~~c~~Chapter, and ~~the Internal Services Department~~ shall issue written instructions on the implementation and ongoing administration of this ~~c~~Chapter. Such instructions may provide for the delegation of functions to other departments.

SECTION 5. Section 2.205.050 is hereby amended to read as follows:

2.205.050 Certification.

~~Each department is responsible for certifying that a contractor is a transitional employer. A contractor shall qualify as a transitional employer, if all of the following are met:~~

A. The ~~entity is, and has been such for three (3) years, a nonprofit organization recognized as tax exempt pursuant to section 501 (c)(3) of the Internal Revenue Code~~DCBA shall certify Social Enterprises and maintain records of the certified businesses and their participation in County purchasing and contracting.

~~B. The entity shall set forth, under penalty of perjury, such information as requested by the county on either electronic or hard copy forms supplied by the county, and submit the necessary certification forms, along with its application form and three (3) most recent annual tax returns (Form 990 or Form 990-EZ) to the department with its bid response to the solicitation for which it is competing.~~

~~C~~B. The ~~entity~~qualifying Social Enterprise must ~~have been~~ in operation for at least one (1) year providing transitional or permanent employment ~~jobs, and the related supportive services~~ to a Transitional Workforce or providing social, environmental and/or human justice services to program participants.

~~D~~C. The ~~entity~~business must also supply the following information as part of the certification process:

1. ~~A profile of its program participants (e.g., homeless individuals, individuals with addictions, at-risk youth, etc.).~~A description of the business' program and service components designed to help a Transitional Workforce or that otherwise qualify it under the definition of a Social Enterprise, including a description of the support services where applicable.

2. ~~A description of the entity's program components designed to help program participants transition towards unsubsidized competitive employment, including a description of the supportive services offered to participants.~~

~~3. The number of participants in the program during the last calendar year.~~

~~4.~~ Any other information requested by the DCBA.

~~Each department shall certify transitional employers and maintain records of such certified businesses and their participation in county purchasing and contracting.~~

SECTION 6. Section 2.205.060 is hereby amended to read as follows:

2.205.060 Responsibilities and standards.

A. ~~In order t~~To facilitate the participation of ~~transitional employers~~Social Enterprise in ~~c~~County purchases of goods and services, departments shall provide for ~~transitional employer~~Social Enterprise preferences in their purchase of goods and services where responsibility and quality are equal.

B. In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, subject to Section 7 below, the preference to the ~~transitional employer~~Social Enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the lowest responsible bidder meeting specifications, determined according to the instructions issued by the ~~Internal Services Department~~DCBA.

C. In solicitations where an award is to be made to the highest scored proposer based on evaluation factors in addition to cost/price, subject to Section 7 below, the preference to the ~~transitional employer~~Social Enterprise shall be ~~eight~~fifteen percent (~~8~~15%) of the cost/price component of the evaluation, determined according to the instructions issued by the ~~Internal Services Department~~DCBA.

D. The Social Enterprise preference under subsections B and C of this section shall not exceed one-hundred and fifty thousand dollars ($150,000) for any one solicitation and award determination.

~~D~~E. In order for a ~~transitional employer~~Social Enterprise to be eligible to claim the preference, the entity must request the preference in the solicitation response.

~~E~~F. ~~When an applicable statute limits the preference to the transitional employer at five percent (5%) or some other amount less than eight percent (8%), the applicable statute shall determine the preference amount.~~In no case shall the Social Enterprise preference program price or scoring preference be combined with any other County preference program to exceed fifteen percent (15%) of the lowest responsible bid meeting specifications.

SECTION 7. Section 2.205.070 is hereby amended to read as follows:

2.205.070 Exclusions.

The ~~transitional job opportunities~~Social Enterprise preference shall not be given for the following ~~c~~County contracts and purchases:

A. National contracts established for the purchase of services, equipment, and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.

B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4~~0~~6.0 or a successor provision.

C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.

D. A non-agreement purchase with a value of less than five thousand dollars ($5,000.~~00~~) pursuant to the Los Angeles County Purchasing Policy Manual, Section A-03000 or a successor provision.

E. Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of the receipt of the federal funds.

F. A contract for which federal, state, or local laws may limit or prohibit application of a Social Enterprise preference.

SECTION 8. Section 2.205.080 is hereby amended to read as follows:

2.205.080 Violations and sanctions.

A. The information furnished by each solicitation respondent requesting a ~~transitional job opportunities~~Social Enterprise preference shall be under penalty of perjury.

B. No person or entity shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a ~~transitional employer~~Social Enterprise for the purpose of this ~~c~~Chapter.

C. No person or entity shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a ~~c~~County official or employee for the purpose of influencing the certification or denial of certification of any entity as a ~~transitional employer~~Social Enterprise.

D. An business that has obtained ~~c~~County certification as a ~~transitional employer~~Social Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the ~~c~~County any difference between the contract amount and what the ~~c~~County's costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision 1 of subsection D of this ~~s~~Section, be assessed a penalty in an amount of not more than ten percent (10%) of the amount of the contract involved; and

3. Be subject to the provisions of Chapter 2.202 of the ~~c~~County ~~c~~Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any ~~entity~~Social Enterprise that has previously obtained proper certification, however, as a result of a change in its status would no longer be eligible for certification, and fails to notify the ~~certifying department~~DCBA of this information prior to responding to a solicitation or accepting a contract award.

SECTION 9. Section 2.205.090 is hereby amended to read as follows:

2.205.090 ~~Appeals for reconsideration of transitional employer certification.~~Review for program eligibility.

The ~~certifying department~~DCBA will investigate any valid complaint of eligibility received by the ~~c~~County concerning the ~~transitional job opportunities~~Social Enterprise ~~p~~Preference ~~p~~Program.

SECTION 10. Section 2.205.100 is hereby amended to read as follows:

2.205.100 Applicability.

This ~~c~~Chapter shall apply to all solicitations issued sixty (~~9~~60) days after the effective date of the ~~o~~Ordinance codified in this ~~c~~Chapter.

[2205010PSCC]