



## MEMORANDUM

July 9, 2020

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes   
Executive Director

**SUBJECT:** Informational presentation on potential programs to support Local Business Enterprises (LBEs) that do business with the Port or are Port tenants and have been financially harmed by the COVID-19 pandemic.

**DIRECTOR'S RECOMMENDATION:** Informational Only

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### EXECUTIVE SUMMARY

The Port Commission fosters and supports a robust network of small and very small local businesses in San Francisco and along the waterfront. The City established a Local Business Enterprise (LBE) program to expand contracting opportunities for small San Francisco based firms, which are defined based on gross receipts by type of industry. LBEs provide key professional and construction services to the Port and have become valued community partners. Historically, LBEs have experienced higher costs and competitive disadvantages compared to large businesses or businesses located outside San Francisco. The onset of the COVID-19 pandemic has highlighted such disadvantages and caused unprecedented and disastrous economic impacts across the City and nation for businesses, including LBEs.<sup>1</sup>

In San Francisco, COVID-19 has disproportionately impacted neighborhoods adjacent to the Port including Bayview and Hunters Point, which have among the highest infection rates in the City. This pattern is consistent with national statistics, where

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<sup>1</sup> "Coronavirus is Hitting Black Business Owners Hardest." New York Times, June 18, 2020.  
<https://www.nytimes.com/interactive/2020/06/18/us/coronavirus-black-owned-small-business.html>

COVID-19's worst effects hit communities of color. Additionally, businesses owned by people of color have received significantly less support from federal stimulus programs.<sup>2</sup> For the Port, this economic harm of COVID-19 presents several significant risks, including:

- To the vibrancy of the Southeastern Waterfront, which includes the Bayview community;
- To major Port projects using micro-LBEs such as Pier 70, Mission Rock, and the Seawall Resiliency Program;
- Potential loss of revenue from tenants who are LBEs; and
- Operational continuity challenges if key Port service providers cease to operate.

To sustain the Port's vibrant and diverse population of micro professional service and construction contractors, Port staff has examined a range of financial assistance options for near term aid. Staff is also evaluating options to address the longer-term capital and banking needs of the LBE community to provide services that will support and grow LBEs in the future. Staff is exploring programs to immediately support its LBE ecosystem – 1) a loan program with very favorable terms with a substantial loan forgiveness component and 2) rent forgiveness for LBE and other tenants (which will be addressed in a separate item on the July 14<sup>th</sup> Port Commission agenda).

## **STRATEGIC PLAN**

This project supports the goals of the Port's Strategic Plan as follows:

### **Equity:**

*By growing and preserving the number of local businesses competing for Port contracts by engaging teams that support the diversity of our City.*

*By continuing to build the capacity of local businesses to bid and compete on Port contracting opportunities with the objective of exceeding the Mayor's 40% LBE aspirational goal.*

## **BACKGROUND**

The Port through its Strategic Plan and its contracting portfolio is committed to engaging teams that support the diversity of the City and increasing the proportion of funds spent by the Port with LBEs and micro-LBE firms. These firms are the City's most vulnerable low-income businesses and are often located in historically underserved and disadvantaged neighborhoods. The COVID-19 pandemic has dramatically highlighted the disparities in health care and economic security in our society and requires the Port to protect its LBE community.<sup>3</sup> As all levels of government have created emergency programs to respond to the threats faced by small business during the health

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<sup>2</sup> <https://www.nytimes.com/2020/05/18/business/minority-businesses-coronavirus-loans.html>

<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>

emergency, the Port wishes to create a program to provide economic support to its LBE contractors, suppliers and tenants.

### **TARGET LBE POPULATION**

The City established the LBE program to expand contracting opportunities for small San Francisco based firms, which are defined based on gross receipts by type of industry. The City’s Contract Monitoring Division (CMD), a division of the City Administrator’s Office, oversees adherence to the LBE program. CMD accepts and reviews applications and certifies qualifying local firms as LBEs. Once a business is certified as a LBE, it is also classified as a Minority Owned Enterprise (LBE-MBE), Woman Owned Enterprise (LBE-WBE), or Other Business Enterprise (LBE-OBE). An LBE may be further categorized as an “SBA-LBE,” “Small-LBE,” or “Micro-LBE” based on gross receipts by type of industry. Micro-LBEs are the smallest business, as measured by average gross annual receipts and accordingly, may be the most susceptible to harm due to the pandemic and its economic impacts.

There are currently 1,261 LBE firms certified with the CMD. Of those, 170 unique LBE firms are either located on Port property or serve on existing Port contracts as prime contractors, subcontractors/subconsultants, or suppliers. The Port has identified 131 Micro-LBE firms as the target population for the programs identified in this report. Table 1 summarizes the number of Micro-LBE firms in the target population by LBE type and relationship to the Port.

Table 1: Target Population by Micro LBE Type

	<b>LBE-MBE</b>	<b>LBE-WBE</b>	<b>LBE-OBE</b>
Tenants	17	5	8
Suppliers	4	1	8
Contractors*	31	32	32

*\*Some tenants also hold contracts*

### **LBE HARDSHIP EMERGENCY LOAN AND GRANT PROGRAM**

The Port must address the hardship experienced by LBEs swiftly to mitigate potential risks to the Port. To ensure immediate impact and access to assistance, the program must be simple, have few barriers, and utilize existing programs with established protocols. Port staff recommends the creation of an emergency loan program with partial forgiveness upon repayment.

The Port lacks the capacity to quickly and effectively institute an emergency business loan program; therefore, Port staff proposes partnering with the Office of Economic and Workforce Development (OEWD) to utilize the existing San Francisco Hardship Emergency Loan Program (SFHELP). The City created SFHELP in April 2020 in response to the COVID-19 emergency to support San Francisco small businesses with

certain business expenses including payroll, rent, utilities, inventory, and other costs. SFHELP loans provide businesses up to a maximum amount of \$50,000 and have zero interest.

The proposed LBE Hardship Emergency Grant Program would mirror the SFHELP program with some small changes. To qualify for a loan, a business must:

- Not have received a federal Paycheck Protection Program loan.
- Possess a valid San Francisco Business License.
- Be a for-profit business located in San Francisco and in good standing.
- Demonstrate a 25% drop in revenues since January 1, 2020.
- Have annual business revenues less than \$2.5M per year
- Have no City and County of San Francisco tax liens or judgements

The additional criteria for the Port include:

- Certified Micro-LBE with the City and County of San Francisco
- Located on Port property or is a prime or subcontractor/consultant on a Port project.

The Port would fund this program with \$1,000,000 from the Southern Waterfront Community Benefit and Beautification Fund to provide loans of up to \$50,000 per eligible applicant at zero percent interest and loan funding based on eligible business expenses. Repayment will commence within six month and be completed within five years from the funding of the loan. The Port would offer loan forgiveness for loans paid in full within the first three years as described. Upon repayment of 50% of the loan within the two years from disbursement, Port will forgive the remainder of the debt. Upon repayment of 75% of the loan within three years from disbursement, Port will forgive the remainder of the debt.

To take advantage of existing administrative infrastructure, Port staff recommends partnership with OEWD. The Port would transfer funds to OEWD to administer the program through OEWD's lending partner Main Street Launch (MSL). OEWD proposes to amend their existing contract with MSL to include terms for the new lending program negotiated between MSL, OEWD, and the Port.

The ability to use OEWD's existing program framework with MSL affords the rapid deployment of emergency financial assistance to address the needs of our most vulnerable small businesses. The Port would hire a certified LBE firm to conduct outreach, link, and recruit businesses for the emergency loan and grant program.

## **RENT FORGIVENESS**

Rent forgiveness provides an additional financial relief strategy for LBEs located on Port property. Based on rent rolls, truck parking logs, and the Contract Monitoring Division LBE directory, there are currently 30 LBE firms that list Port property as their primary place of business. To date the Port Commission has offered LBE tenants rent relief

through a broad-based rent deferral for March – July 2020 and through the Opt-In Rent Deferral Program for August – December 2020.

### **LONG TERM ACCESS TO CAPITAL**

The Port's proposed LBE Hardship Emergency Loan and Grant Program will help alleviate immediate the financial need of its Micro-LBE community but the Port also wishes to develop and implement a sustainable program to provide LBEs with long term access to capital. The Port hopes to improve access to capital to LBEs in all industry types who are prime or subcontractors/subconsultants to the Port on public and private projects. Port staff has begun to explore strategies to deploy resources to serve as a potential funder, a guarantor, or other risk mitigation backstop. The Port is working with RDJ Enterprises, a MBE-LBE community relations firm, to understand how best to deploy access to capital with lower barriers, flexible credit criteria, and affordable interest rates. The initiative would endeavor to maintain the principal of any Port seed funds and include extensive risk analysis.

This plan would complement the City's existing programs for small businesses including OEWD's small business revolving loan fund, OEWD's emerging business loan fund, and the CMD/Risk Management Contractor Accelerated Payment Program (CAPP). The OEWD programs use City funds and an outside program administrator. The CAPP uses private loan funds to provide project-based financing to construction contractors on City projects only. This program is currently available to LBEs on Port public construction projects and may provide a partial solution to a long-term loan program. Other existing small business loan resources that the Port is researching include the California Infrastructure Economic Development Bank (iBank) and federal government Small Business Administration which both provide loan guarantees.

Currently, all the City loan programs engage a Community Development Financial Institution (CDFI). Port staff believes that it is critical to explore options that will also help LBEs gain access to capital from their existing financial institution – their bank. RDJ Enterprises has suggested a strategy to improve existing relationships between an LBE and its bank. Access to a line of credit is often the first risk a bank will take and provides a stepping-stone towards larger dollar loans. Port staff therefor recommends exploration and development of financial tools to support LBE access to lines of credit. If feasible, this strategy provides a low-cost and long-term means to stabilize the LBE in its existing financial relationships. A line of credit strategy allows for repeated small dollar loans and can bridge the gap for an LBE between work, invoice and payment. This is one possible approach and could provide an on-ramp to the other City Programs at OEWD, CAPP, and SBA-backed programs.

The Port staff will return to the Port Commission this winter with a more comprehensive plan regarding the loan program model.

### **PROPOSITION 209 REPEAL**

As the Port considers options to support its network of LBEs in the short and longer term, staff is aware that in June 2020 the California State Legislature placed a measure on the November ballot to repeal Proposition 209. Adopted by voters in November 1996, Proposition 209, amended the state constitution to prohibit state governmental institutions from considering race, sex, or ethnicity in public employment, public contracting, and public education. In 2004, the San Francisco Superior Court ruled that under Proposition 209, the City was prohibited from addressing discrimination in public contracting through the use of racial-, ethnicity-, and gender-based bid preferences.

As a result, in 2004 the Board of Supervisors suspended the City's Minority, Women, and Local Business Enterprise Utilization Ordinance and replaced it with the current LBE and Non-Discrimination in Contracting Ordinance. The current LBE program is race- and gender-neutral, no bid discounts or scoring preferences are given based on race or gender.

If approved by California voters, the November 2020 ballot measure would strip language from the state Constitution that prohibits agencies from using race- and gender-based preferences in public employment, public contracting, and public education, thereby opening the door for the City and County of San Francisco to implement gender- and race-based bid and rating preferences on competitive contract solicitations.

Port staff will continue to provide Port Commissioners on developments regarding the repeal of Proposition 209.

### **NEXT STEPS**

Port staff intends to incorporate Port Commission feedback on the short term LBE Hardship Emergency Grant Program with very favorable terms and with a substantial loan forgiveness component and return on August 11, 2020 with an action item to approve this initiative. In addition, Port staff will continue to work closely with the Port Commission, CMD, and LBE stakeholders to develop a program that addresses longer term capital and banking needs for the LBE community

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