

**RICHLAND COUNTY**  
**OFFICE OF SMALL BUSINESS AD HOC**  
**COMMITTEE**

**AGENDA**

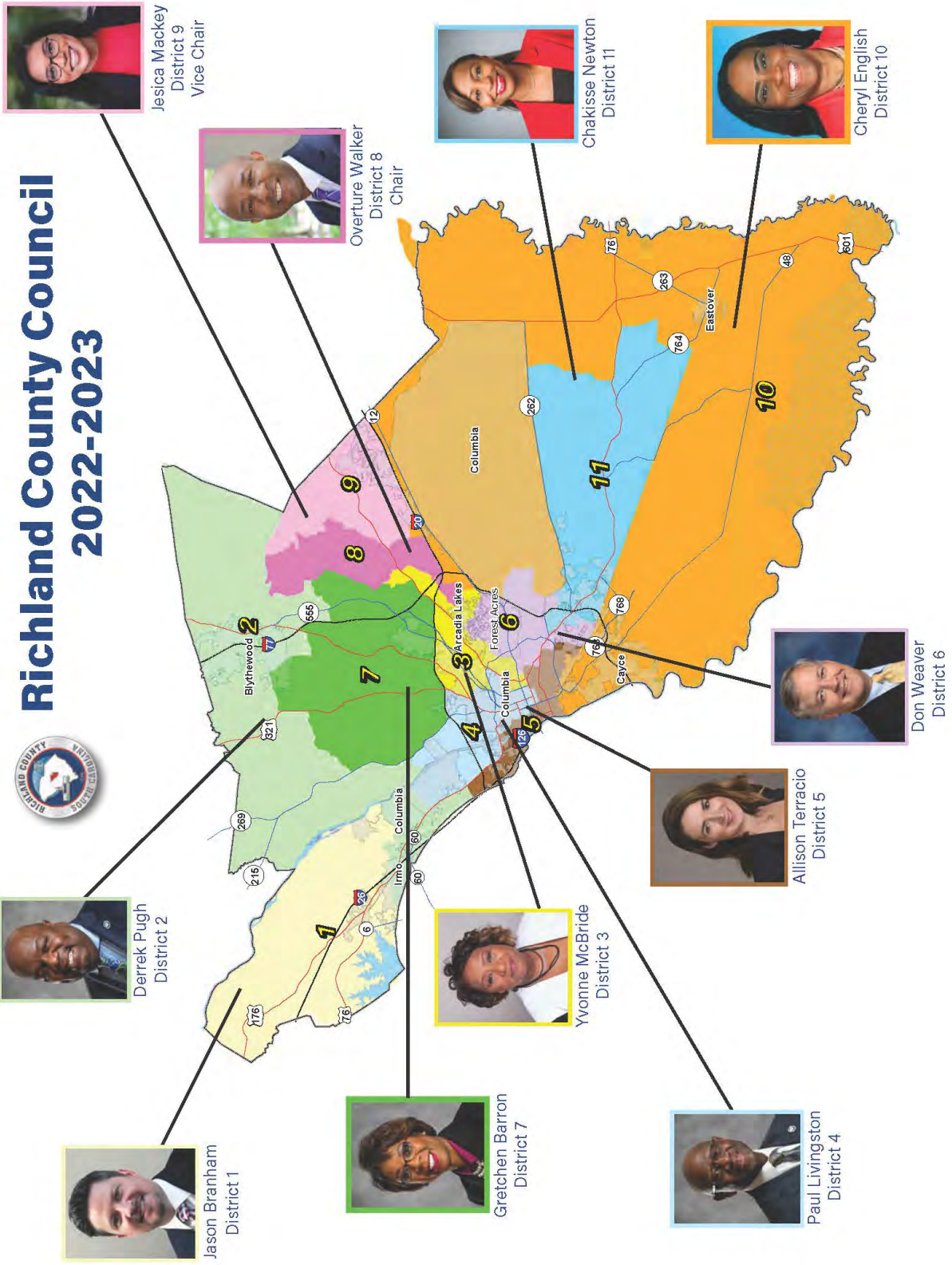


**TUESDAY MARCH 07, 2023**

**2:30 PM**

**COUNCIL CHAMBERS**

# Richland County Council 2022-2023





**Richland County  
Office of Small Business Ad Hoc Committee**

**AGENDA**

March 07, 2023 - 2:30 PM  
2020 Hampton Street, Columbia, SC 29204

The Honorable Jason Branham	The Honorable Derrek Pugh	The Honorable Gretchen Barron	The Honorable Jessica Mackey	The Honorable Chakisse Newton
County Council District 1	County Council District 2	County Council District 7	County Council District 9	County Council District 11

1. **Call to Order** The Honorable Derrek Pugh
  
2. **Approval of Minutes** The Honorable Derrek Pugh
  - a. November 1, 2022 [PAGES 5-6]
  
3. **Adoption of Agenda** The Honorable Derrek Pugh
  
4. **Election of Chair** The Honorable Derrek Pugh
  
5. **Discussion Items**
  - a. OSBO Presentation [PAGES 7-23]
  - b. OSBO Ordinances:
    1. Ordinance 049-13HR - "An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration, Article X, Purchasing; by adding a new division entitled 7, Small Local Business Enterprise Procurement Requirements; and amending Chapter 2, Administration; Article XI, Inquiries and Investigations, so as to renumber the paragraphs therein" [PAGES 24-36]
    2. Ordinance 039-14HR - "An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; by adding a new division entitled 5A, Office of Small Business Opportunity; so that a new department will be created" [PAGES 37-38]
    3. Ordinance 028-16HR - "An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise

Procurement Requirements; Section 2-644, Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation; Subparagraph 5; so as to increase the contract value for sheltered markets" [PAGE 39]

4. Ordinance 058-16HR - "An Ordinance amending the Richland County Code of Ordinances, Chapter 2, Administration; so as to move the division known as the Office of Small Business Opportunity from Procurement so that this division directly reports to the County Administrator" [PAGE 40]

5. Division 7. Small Business Enterprise Procurement Requirements [PAGES 41-47]

## 6. Adjournment



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



Richland County Council  
Office of Small Business Ad Hoc Committee  
**MINUTES**  
November 1, 2022 – 2:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29204

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COUNCIL MEMBERS PRESENT: Derrek Pugh, Gretchen Barron (arrived at 2:13 p.m.), Jessica Mackey, and Chakisse Newton

OTHERS PRESENT: Erica Wade, Nathaniel Miller, Tamar Black, Anette Kirylo, Kyle Holsclaw, Leonardo Brown, Patrick Wright, Zachary Cavanaugh, Sarah Harris, Bryant Davis, Jennifer Wladischkin, Lori Thomas, Abhijit Deshpande, Angela Weathersby, Justin Landy, Ashiya Myers, Chelsea Bennett, Dante Roberts, Pamela Green, Margaret Jones, Aric Jensen, Geo Price, Michael Maloney, Stacey Hamm, Dwight Hanna, and Michelle Onley

1. **CALL TO ORDER** – Councilman Chakisse Newton called the meeting to order at approximately 2:00 PM.
2. **ADOPTION OF THE AGENDA** - Mr. Pugh moved to adopt the agenda as published, seconded by Ms. Mackey.  
  
In Favor: Pugh, Mackey, and Newton  
  
Not Present: Barron  
  
The vote in favor was unanimous.
3. **ELECTION OF CHAIR** – Ms. Mackey moved to elect Mr. Pugh as Chair, seconded by Ms. Newton.  
  
In Favor: Pugh, Mackey, and Newton  
  
Not Present: Barron  
  
The vote in favor was unanimous.
4. **MINUTES**
  - a. **October 16, 2018 [FOR INFORMATION]** – The minutes were received as information.
5. **PRESENTATION**
  - a. **OSBO Overview** – Ms. Erica Wade, OSBO Manager, presented an overview of the Office of Small Business Opportunity.  
  
Ms. Newton inquired about the number of open positions.  
  
Ms. Wade responded there are currently two positions open.

Ms. Newton inquired when the office was founded.

Ms. Wade responded it was founded in 2014.

Ms. Newton inquired about what Ms. Wade sees as some of the biggest successes of the office.

Ms. Wade responded that during the pandemic, they could retain their SLBEs and virtually conduct workshops and training.

Ms. Mackey inquired about the eligibility requirements for SLBE and how they differ from other municipalities (i.e., the City of Columbia).

Ms. Wade responded the SCDOT program is federal and uses the DBE program. The County's program is small and local. The County is also race and gender-neutral, while the City of Columbia and SCDOT are race and gender conscience.

Ms. Mackey inquired if small businesses that apply for a business license could automatically begin the process of applying to be an SLBE.

Ms. Wade responded, based on feedback received, the transition is smooth, and the Business License Department and the Office of Small Business Opportunity work hand-in-hand.

Ms. Barron noted she saw more coming from the OSBO Office during the pandemic than she had ever seen before. She praised the department for its work. She inquired if there was a way for them to expand and be more inclusive.

Mr. Brown stated moving forward; they will review the ordinance(s) to understand Council's intentions better when they were created and potentially seek feedback from the current Council on their intentions. He wants to ensure the ordinance(s) align with what we want to accomplish as a County, as it relates to how they organize the organization.

Ms. Newton noted the presentation indicated the OSBO would participate in the equity study. She inquired where we stay in that process.

Ms. Wladischkin responded they submitted an RFP for the diversity study and submitted a ranking memo to Mr. Brown. He signed off on the memo, and they are engaging in Phase I of the study. The contract negotiations have been completed, and they will issue a notice to proceed soon. Ms. Wade will be the contracting officer representative for the County.

Ms. Newton requested a copy of the RFP.

6. **ADJOURNMENT** - Ms. Mackey moved to adjourn, seconded by Ms. Newton.

In Favor: Pugh, Barron, Mackey, and Newton

The motion to adjourn was unanimous.

The meeting adjourned at approximately 2:40 PM.

# OFFICE OF SMALL BUSINESS OPPORTUNITY

Prepared for: OSBO Ad-Hoc Committee and Administration

Councilwoman Gretchen Barron

Councilwoman Chakisse Newton

Councilman Derrek Pugh

Councilwoman Jesica Mackey

Administrator Leonardo Brown

Director, Jennifer Wladischkin

March 7, 2023





# MISSION OF OSBO

The Mission of the Office of Small Business Opportunity of Richland County, South Carolina, is to provide a race and gender-neutral tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in contracts for construction, architectural and engineering services, professional services, non-professional services and commodities.





# OSBO GOALS

- **Advocate:** Ensure that all segments of the small and local business community have a reasonable and significant opportunity to participate in County contracts.
- **Connect:** Connect businesses to programs and resources that help foster business growth.
- **Qualify:** Qualify small, local businesses using numerous verification techniques to ensure applicants meet the eligibility requirements and comply with all aspects of Richland County programs.
- **Compete:** Help small and local businesses understand how to leverage their resources to become more productive and competitive in the business market.



# OSBO SERVICES PROVIDED

## Qualify- SLBE Certification

### 1:1 Consultation



### Advocacy



### Connections/Resources



# ELIGIBILITY REQUIREMENTS (SLBE/ESLBE)

## SLBE

- Must have the principal place of business or significant employee presence in Richland County
- Must be independently owned and operated for-profit business concern that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation
- The business owners are actively involved in day-to-day management and control of the business that is performing a commercially useful function
- Must have no more than 50 full-time employees
- At least 1 year in business
- Must meet the size standard eligibility requirements for small business enterprises

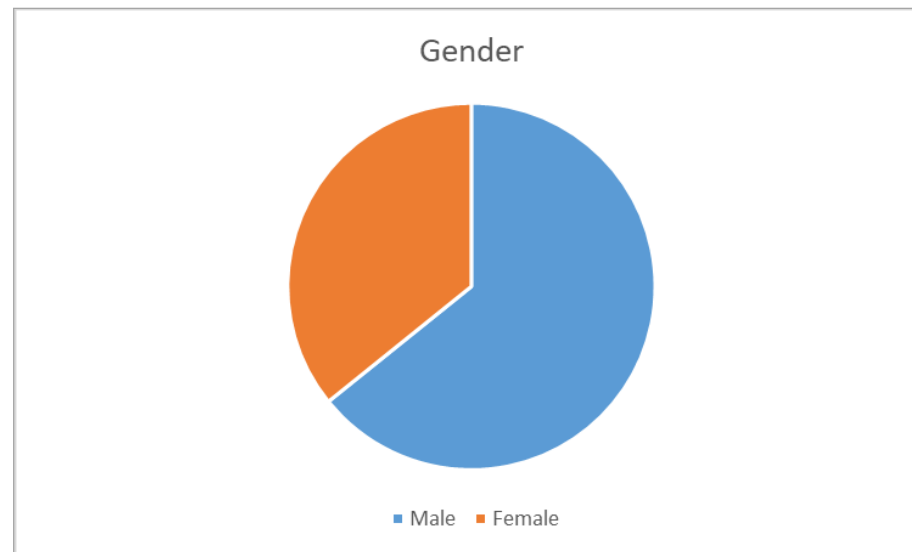
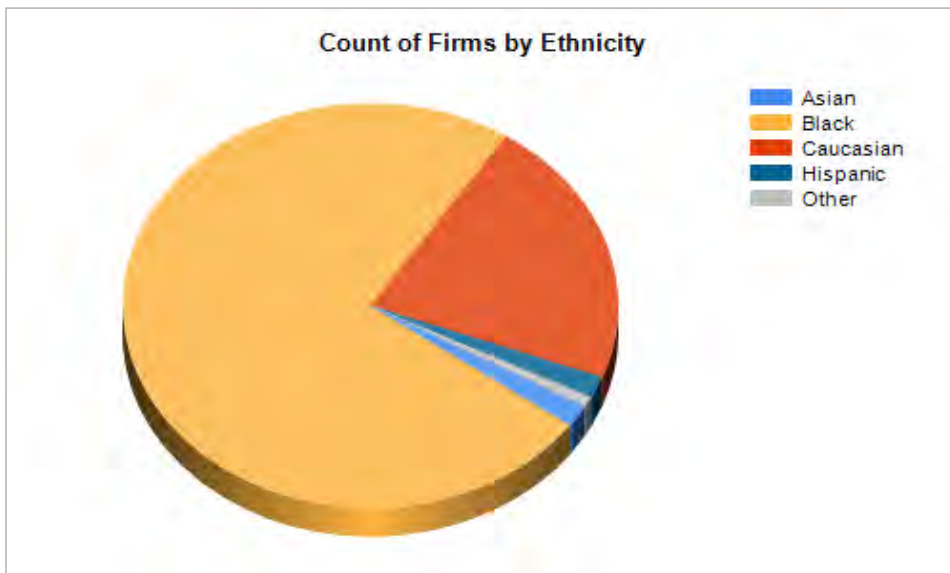
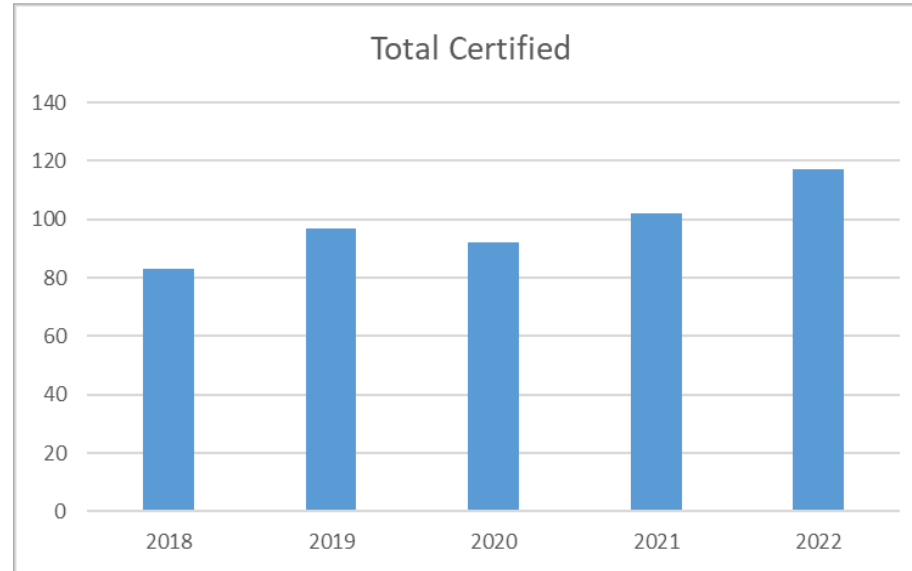
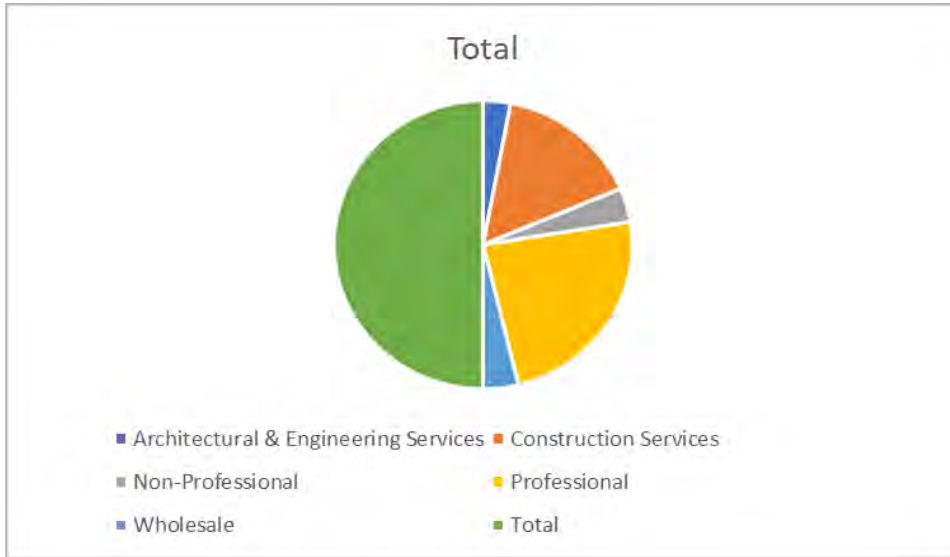
## \*ESLBE

- Less than five (5) years old
- Has no more than five (5) full-time employees
- Annual gross sales as averaged over the life of the firm is less than \$1million

\*An ESLBE must meet all the requirement of a SLBE



# CERTIFIED SLBES



# TOTAL AWARDED TO SLBES

To date **\$86,303,633** has been awarded to SLBE's.

- Dirt Road Paving
- Sidewalk and Pedestrian Improvements
- Resurfacing Projects
- Intersection Improvements
- Drainage Improvement Projects





# SLBE PARTICIPATION 2018 |2023

Project Name	Sheltered Market	SLBE Goal	DATE
2017 Dirt Roads Package H	No	4.05%	February 6, 2018
2017 Dirt Roads Package G	Yes	4.98%	February 22, 2018
Sidewalk Package S-8	Yes	<b>100%</b>	April 19, 2018
Pedestrian Improvements at Intersections	No	12%	July 3, 2018
2018 Sidewalks – Koon Rd. & Farmview St.	Yes	<b>100%</b>	July 18, 2018
2016 PDT Sidewalks-Clemson Road ( <b>Closed 2022</b> )	Yes	<b>100%</b>	October 2, 2018
2018 Richland County Dirt Roads Package I	No	5.95%	October 19, 2018
South East Richland Neighborhood NIP SERN ( <b>Closed 2022</b> )	No	17.3%	November 15, 2018
2018 Richland County Dirt Roads Project 7 Road Group	No	11%	December 31, 2018
Sidewalks S-13	No	25%	January 17, 2019
Sidewalk Package S-11	No	22%	January 28, 2019
North Springs and Harrington Intersection Improvements	No	15%	March 13, 2019
Atlas Road Widening Project	No	14%	April 4, 2019
Lakeside Subdivision (Incl. Sienna Dr.) Resurfacing	No	3%	August 1, 2019
Decker Woodfield NIP-Faraway Drive Sidewalk	No	25%	September 15, 2020
Green Street Phase II	No	8.1%	September 18, 2019
Sidewalk S-12	No	19%	September 24, 2019
2019 Richland County Dirt Road Package K( <b>Presently Working on Closeout</b> )	No	23%	October 17, 2019
Dirt Road Paving Package L	No	24%	June 18, 2021
Bull Street & Elmwood Ave. Intersection Improvement	No	18%	May 24, 2021
Dirt Road Paving Package M	No	8.5%	October 1, 2021
Percival Rd/Screaming Eagle Rd	No	6%	November 16, 2021
Garners Ferry Road (US-378) and Harmon Road (S-86) Intersection Improvement Project	No	18%	December 7, 2021
Blythwood Road Widening	No	15%	March 17, 2022
Sunset Drive Sidewalk Improvement	No	23%	April 1, 2022
Brookfield Road Sidewalk & Chatsworth Shared-Use Pathway	No	25%	April 1, 2022
Dirt Road Package N	No	19%	June 21, 2022
Dirt road Package O (Paving/Sidewalk)	No	12%	February 15, 2023
<b>PUBLIC WORKS</b>			
Lakeside at Ballentine Resurfacing (Non-Transportation)	No	3%	August 1, 2019
Knollwood and Planters Drainage Improvement	Yes	100%	January 21, 2020
Miles Rd/3Bears Road Intersection Resurfacing	No	18%	February 27, 2020
Riverwalk Way and Stockland Road Resurfacing	No	34%	February 28, 2020
Wildewood Subdivision Selected Roadways	No	3%	May 18, 2020
Kneece Road Sidewalk	No	23%	January 7, 2021
Utilities Security Fence			June 24, 2022



# SLBE PARTICIPATION PROJECTS



**Bull and Elmwood Intersection Improvement**  
**SLBE Utilization Percentage Goal 18%**



**Green Street Improvements Phase II**  
**SLBE Utilization Percentage Goal 8.1%**





# OSBO'S STRATEGIC COMMUNITY PARTNERS

- OSBO partners with agencies throughout South Carolina with special emphasis on Richland County, promoting and educating the business community on the County's goals, services, projects and opportunities.
- Through these partnerships, OSBO ensures that Richland County is visible at outreach events hosted by the community partners.
- OSBO has also partnered with the Hispanic Business community educating and promoting the community on Richland County's resources and certifications



# OSBO'S STRATEGIC PARTNERSHIPS



# OSBO BUSINESS ACADEMY

The OSBO office provides technical workshops and training on various topics such as contracting, investors and loan options, marketing and branding, business plans, establishing business credit, etc.

INTERNAL ADMINISTRATIVE WORKSHOPS 2023	DATE 2023	NO. ATTENDED
Good, Better, Different	2/23/2023	61
The Power of Strategic Partnerships	3/22/2023	
Deep Dive Financials-Where's My Money	4/29/2023	
Small Business Resilience-Learning How to Unplug to Sharpen you Focus	5/17/2023	
Protecting Your Brand	3/21/2023	
Evaluating Your Business Structure and Law	8/16/2023	
Engaged Richland	9/13/2023	

*\*dates and times are subject to change*



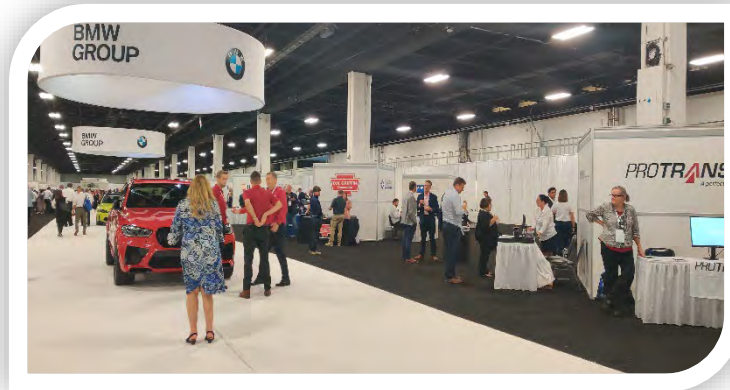
# OSBO BUSINESS ACADEMY

GOOD BETTER DIFFERENT (FEBRUARY 23 2023)





# OSBO COMMUNITY ENGAGEMENT



Richland County  
Government

# DISPARITY STUDY UPDATE

## Consultant, Griffin & Strong P.C.

- Kickoff Data /Assessment Meeting, December 5, 2022
- Plan for Data Collection (Outline Complete)
- Collection of Quantitative Data (Due March 10, 2023)
- Policy Review (Legal, OSBO, Economic Development, Procurement, Transportation) In Progress



# NEXT STEPS

- Administration and Council's directives for OSBO
  - Ordinance 058-16HR Book 16, Page 295
    - Effective December 14, 2016--Recorded February 24, 2017
  - OSBO will recruit and promote the development of small businesses within Richland County
    - SLBE program
    - M/WBE program
    - Mentor-protégé program
    - Utilization program metrics
    - Participation goals
      - OSBO-Procurement collaboration
      - Aspirational goal countywide
      - Sheltered market projects
    - Training and education initiatives
    - Access to capital
    - Small business outreach





# OSBO STAFF

Erica B. Wade, Manager

Pamela Green-Swinton, Assistant Manager

Margaret Jones, Certification and Compliance

Phone: (803) 576-1540

Website: [www.richlandcountysc.gov/OSBO](http://www.richlandcountysc.gov/OSBO)



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. 049-13HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; BY ADDING A NEW DIVISION ENTITLED 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; AND AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE XI, INQUIRIES AND INVESTIGATIONS, SO AS TO RENUMBER THE PARAGRAPHS THEREIN.

RICHLAND COUNTY  
FILED

NOV 16 AM 8:44  
CLERK OF COURTS  
& REGISTER

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances; Chapter 2, Administration; Article XI, Inquiries and Investigation; Section 2-639, Short title; is hereby renumbered to read as Section 2-647, and all remaining paragraphs in Article XI are renumbered in appropriate chronological order.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; is hereby amended by the creation of a new Division, to read as follows:

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS

**Sec. 2-639. General Provisions.**

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

*Affirmative Procurement Initiatives* – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

*Award* – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

*Bid Incentives* – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

*Centralized Bidder Registration System (“CBR”)* -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

*County* – refers to the County of Richland, South Carolina.

*Commercially Useful Function* – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its 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 meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

*Emerging SLBE* – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

*Goal* – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement or a Goal Setting Committee.

*Goal Setting Committee* – a committee established by the Director of Procurement for the County (including a representative of the Procurement Department and a representative of the end-user agency) and chaired by the Director of Procurement that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

*Good Faith Efforts* – documentation of the Bidder's intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder's commitment to comply with SLBE Program goals as established by the Director of Procurement or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County's SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

*Graduation* – An SLBE firm permanently graduates from the County's SLBE program when it meets the criteria for graduation set forth in this policy.

*Independently Owned, Managed, and Operated* – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

*Industry Categories* – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural & Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as "business categories."

*Joint Venture* - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

*Local Business Enterprise ("LBE")* - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

*Non-professional Services* – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such "other" services that do not require any license or highly specialized training and credentials to perform.

*Points* – the quantitative assignment of value for specific evaluation criteria in the selection process.

*Prime Contractor* – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

*Principal Place of Business* – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

*Professional Services* – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

*Responsive* - a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

*Sheltered Market* – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

*Significant Employee Presence* – no less than twenty-five percent of a firm's total number of full and part-time employees are domiciled in Richland County.

*Small Local Business Enterprise ("SLBE")* – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a "Small Business Enterprise" and a "Local Business Enterprise."

*SLBE Plan Execution Certification (SLBE Form – C)* - The form certifying the general contractor's intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

*SLBE Directory* - A listing of the small local businesses that have been certified by the Procurement Department for participation in the SLBE Program.

*SLBE Certification/Re-certification Application (SLBE Form – R)* – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County's Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

*SLBE Schedule for Subcontractor Participation (SLBE Form – S)* – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the Director of Procurement before contract award.

*SLBE Unavailability Certification (SLBE Form – U)* - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

*Small Business Enterprise ("SBE")* a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the following size standard limitations: (1) the SBE must have no more than fifty full-time employees; and (2) the SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than \$10 million for construction firms, specialty trade contractors, and manufacturing firms; not more than \$5 million for architectural firms; not more than \$3 million for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than \$2.5 million for engineering firms; and not more than \$2 million for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services). If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a

business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SBE. *This definition is subsumed within the definition of Small Local Business Enterprises.*

*Small Local Business Enterprise ("SLBE") – A Local Business Enterprise that is also a Small Business Enterprise.]*

*Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.*

*Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.*

*Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.*

**Sec. 2-640. Program Objectives and General Responsibilities.**

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.
2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;
3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;
4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement shall determine the size of each GSC that is to be chaired by the Procurement Director. The Procurement Director shall also appoint the remaining members of the GSC from the County’s procurement personnel and other County departments affected by this Program; and
5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.

(b) At a minimum, the Procurement Director shall:

1. Report to the County Administrator and the County Council on at least an annual basis as to the County's progress towards satisfying SLBE program objectives;
2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;
3. Have substantive input in a contract specification review process to be undertaken in advance of the issuance of County's RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;
4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and
5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;
2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement on a contract-by-contract basis; and
3. Monitor and support the implementation of the rules under this Program policy.

**Sec. 2-641. Eligibility for the SLBE Program.**

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (*SLBE*) with the Procurement Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;
2. It meets size standard eligibility requirements for Small Business Enterprises as defined below:
  - a. Construction firms, specialty trade firms, and manufacturing firms have not employed more than 50 full-time persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$7 million in its most recently completed 3 fiscal years;
  - b. Architectural business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;



c. Professional services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;

d. Engineering business firms , have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2.5 million in its most recently completed 3 fiscal years;

e. Wholesale operations, retail firms, and all other services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2 million in its most recently completed 3 fiscal years; and

If a business has not existed for 3 years, the employment and gross revenue limits described above shall be applied based upon the annual averages not to exceed three years.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

*This definition is subsumed within the definition of Small Local Business Enterprises.*

3. The firm is a Local Business Enterprise as defined by this Policy with a principal place of business or significant employment presence in Richland County, SC as defined herein;

4. The firm has been established for at least one year or the managing principals of the business each have at least three years of relevant experience prior to forming or joining the business; and

5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement or designated Procurement Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or

Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the Procurement Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with SLBE criteria as specified above in Sec. 2-641 (a)(1) and (a)(3);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

**Sec. 2-642. Graduation and Suspension Criteria.**

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;
2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
3. An SLBE firm shall be temporarily suspended by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;
4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of Procurement if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;
5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm;

6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million; and

7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status.

(b) The Director of Procurement shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

**Sec. 2-643. Appeals.**

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of Procurement, or designee (other than the Director of Procurement), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

**Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.**

(a) The County in conjunction with the appropriate Contract Officer and the Director of Procurement may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. *Bonding and Insurance Waiver:* The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. *Price Preferences:* The County may award a contract to a SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the County's budgeted price for the contract.

3. *Evaluation Preferences:* The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners

a. For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The

determination will be made using the suggested model outlined in the "Point Evaluation Table" below:

**POINT EVALUATION TABLE**

<b>10 Points for SLBE Participation</b>	<b>20 Points for SLBE Participation</b>
> 51% = 10 points	> 51% = 20 points
> 45% = 7 points	> 45% = 17 points
> 40% = 6 points	> 40% = 16 points
> 35% = 5 points	> 35% = 14 points
> 30% = 4 points	> 30% = 12 points
> 25% = 3 points	> 25% = 10 points
> 20% = 2 points	> 20% = 8 points
> 15% = 1 points	> 15% = 6 points
	> 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following schedule, which is most often used by Architectural & Engineering:

<b>Points Awarded</b>	<b>% of Participation Criteria</b>
5.0 51-100	Proposals by registered SLBE owned and/or controlled firms
4.0 36 – 50	Majority prime with registered SLBE participation
3.0 30 – 35	Majority prime with registered SLBE participation
2.0 24 – 29	Majority prime with registered SLBE participation
0 0 – 23	Less than the goal for registered SLBE participation

4. *Mandatory Subcontracting:*

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of Procurement for good cause by submitting the SLBE Unavailability Certification form to the Director of Procurement at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of Procurement. The Director of Procurement shall base his or her determination on a waiver request on the following criteria:

(1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;

(2) Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the circumstances of the contract; and

(3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. *Sheltered Market:*

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's Contracting Officer and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. *Competitive Business Development Demonstration Project:*

a. With the concurrence of the Director of Procurement, the appropriate County Contracting Officer may reserve certain contracts for placement into a Competitive Business Development Demonstration Project (“CBD Demonstration Project”) wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a

joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of Procurement shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

**Sec. 2-645. SLBE Program Performance Review.**

(a) The Director of Procurement or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of Procurement or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

**Sec. 2-646. Conflicts.**

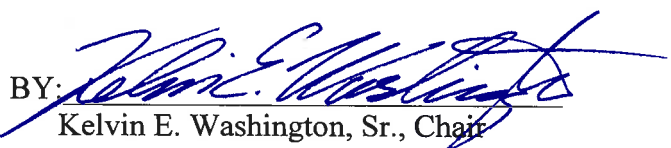
To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be effective from and after September 17, 2013.

RICHLAND COUNTY COUNCIL

BY:   
Kelvin E. Washington, Sr., Chair

Attest this 2 day of

October, 2013.

BOOK 14 PAGE 204

Michelle Onley  
Michelle Onley  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Elizabeth D. Mc

Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

First Reading: May 21, 2013  
Second Reading: July 2, 2013  
Third Reading: September 17, 2013  
Public Hearing: June 18, 2013



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. 039-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE V, COUNTY DEPARTMENTS; BY ADDING A NEW DIVISION ENTITLED 5A, OFFICE OF SMALL BUSINESS OPPORTUNITY; SO THAT A NEW DEPARTMENT WILL BE CREATED.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; Division 5, Public Safety, Sections "2-232 - 2-234. Reserved" is hereby deleted in their entirety.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; is hereby amended by the creation of a new Division, to read as follows:

DIVISION 5A. OFFICE OF SMALL BUSINESS OPPORTUNITY

**Sec. 2-232. Creation; director.**

There is hereby created the department of the Office of Small Business Opportunity (OSBO) and the position of director of the OSBO. The director shall be appointed by and report to the county administrator, and his/her term of office shall be at the pleasure of the county administrator. The director of the OSBO shall be a person with education, training, skills, and/or experience that is satisfactory to the county administrator.

**Sec. 2-233. Staff; personnel; compensation.**

The director of the OSBO shall have such staff and assistants as are necessary to the operation of the department and the performance of his/her duties. They shall be subject to the county personnel system and their compensation determined accordingly.

**Sec. 2-234. Responsibilities; powers; duties.**

The OSBO, and such employees of the department as are assigned to it, shall be charged with the following duties:

- (a) Management of the county's SLBE program (see Section 2-639, et. seq.)
- (b) Management of the county's Minority, Women and Disadvantaged Business Enterprise (MWDBE) programs;
- (c) Management of the county's program for business enterprises owned and operated by persons with disabilities;
- (d) Management of the Business Development program; and
- (e) Other programs or functions assigned to the department by the county administrator or county council.

RICHLAND COUNTY  
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2014 AUG 14 AM 8:58  
JEANNETTE W. MCBRIDE  
C.T.P. & G.S.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

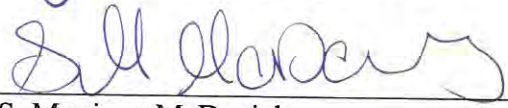
SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be effective from and after July 15, 2014.


RICHLAND COUNTY COUNCIL

BY:   
Norman Jackson, Chair

Attest this 8th day of August, 2014.

  
S. Monique McDaniels  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

  
Approved As To LEGAL Form Only  
No Opinion Rendered As To Content

First Reading: June 17, 2014  
Second Reading: July 1, 2014  
Third Reading: July 15, 2014

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. 028-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; DIVISION 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; SECTION 2-644, AFFIRMATIVE PROCUREMENT INITIATIVES FOR ENHANCING SLBE AND EMERGING SLBE CONTRACT PARTICIPATION; SUBPARAGRAPH 5; SO AS TO INCREASE THE CONTRACT VALUE FOR SHELTERED MARKETS.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Sec. 2-644, Affirmative procurement initiatives for enhancing SLBE and emerging SLBE contract participation; Subsection (5); is hereby amended to read as follows:

(5) *Sheltered market.*

- a. The director of procurement and the appropriate county contracting officer may select certain contracts which have a contract value of five hundred thousand (\$500,000) dollars or less for award to a SLBE or a joint venture with a SLBE through the sheltered market program. Similarly, the director of procurement and the appropriate county contracting officer may select certain contracts that have a value of fifty thousand (\$50,000) dollars or less for award to an emerging SLBE firm through the sheltered market program.

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after July 26, 2016.

RICHLAND COUNTY COUNCIL

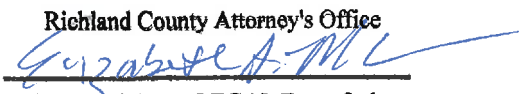
By:   
Torrey Rush, Chair

Attest this 21 day of  
September, 2016.

  
Michelle M. Onley  
Deputy Clerk of Council

Public Hearing:	July 12, 2016
First Reading:	June 21, 2016
Second Reading:	July 12, 2016
Third Reading:	July 26, 2016

JEANNETTE W. MCBRIDE  
2016 OCT 14 PM 4:19  
FILED  
RICHLAND COUNTY

Richland County Attorney's Office  
  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. 058-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; SO AS TO MOVE THE DIVISION KNOWN AS THE OFFICE OF SMALL BUSINESS OPPORTUNITY FROM PROCUREMENT SO THAT THIS DIVISION DIRECTLY REPORTS TO THE COUNTY ADMINISTRATOR

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article III, Administrative Offices and Officers; Division 9, Office of Procurement; Section 2-153.5; is hereby deleted.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Business Enterprise Procurement Requirements; Section 2-639; General Provisions; sub-paragraph (c); is hereby amended by the addition of the following definition, which shall be placed in appropriate alphabetical order:

*Office of Small Business Opportunity.* The office which shall manage and administer the SLBE Program (see Section 2-639 et. seq.) and shall undertake other functions and duties as assigned by the county administrator or county council.

SECTION III. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Business Enterprise Procurement Requirements; shall be amended by replacing each reference of the "director of procurement" to the "director of the Office of Small Business Opportunity."

SECTION IV. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION V. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VI. Effective Date. This ordinance shall be effective from and after December 6, 2016.

RICHLAND COUNTY COUNCIL

BY: Torrey Rush  
Torrey Rush, Chair

Attest this 14 day of

December, 2016.

Michelle Onley  
Michelle Onley  
Deputy Clerk of Council

First Reading: November 1, 2016  
Second Reading: November 15, 2016  
Third Reading: December 6, 2016  
Public Hearing: December 6, 2016

RICHLAND COUNTY  
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2017 FEB 24 PM 1:52  
JEANETTE W. MORRIS  
C.C.P. & G.S.

Richland County Attorney's Office  
Elizabeth J. Mc  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

## DIVISION 7. SMALL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS

### Sec. 2-639. General provisions.

(a) *Purpose.* The purpose of this division is to provide a race- and gender-neutral procurement tool for the county to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in county contracts for construction, architectural and engineering services, professional services, non-professional services, and commodities. The small local business enterprise ("SLBE") Program also furthers the county's public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the county's compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in county contracts. Moreover, the SLBE program provides additional avenues for the development of new capacity and new sources of competition for county contracts from the growing pool of small and locally based businesses.

(b) *Scope and limitations.* This SLBE program may be applied by the county on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions.*

*Affirmative procurement initiatives.* Refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding/ insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

*Award.* The final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the county to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid ("ITB") or request for proposal ("RFP") process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

*Bid incentives.* Additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of architectural and engineering services, construction, professional services, non-professional services, and commodities including change orders and amendments.

*Centralized bidder registration system ("CBR").* A web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., "spend" or "payments") on county contracts.

*County.* Refers to the County of Richland, South Carolina.

*Commercially useful function.* An SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its 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 meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

*Emerging SLBE.* An emerging firm that meets all of the qualifications of a small local business enterprise, and that is less than five (5) years old, but has no more than five (5) full-time employees and annual gross sales as averaged over the life of the firm that are less than one million (\$1,000,000) dollars.

*Goal.* A non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for architectural and engineering services, construction, professional services, non-professional services, and commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract- by-contract basis by either the director of the Office of Small Business Opportunity or a goal setting committee.

*Goal setting committee.* A committee established by the director of the Office of Small Business Opportunity for the county (including a representative of the procurement department and a representative of the end-user agency) and chaired by the director of the Office of Small Business Opportunity that establishes SLBE program goals and selects appropriate SLBE affirmative procurement initiatives to be applied to each contract for the county based upon industry categories, vendor availability, and project-specific characteristics. The director of the Office of Small Business Opportunity may establish as many as five (5) separate goal setting committees (i.e., one (1) for each industry category).

*Good faith efforts.* Documentation of the bidder's intent to comply with SLBE program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the bidder's commitment to comply with SLBE program goals as established by the director of the Office of Small Business Opportunity or a goal setting committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the county web site; solicitations of bids from all qualified SLBE firms listed in the county's SLBE directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to



subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

*Graduation.* An SLBE firm permanently graduates from the county's SLBE program when it meets the criteria for graduation set forth in this policy.

*Independently owned, managed, and operated.* Ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

*Industry categories.* Procurement groupings for county contracts for purposes of the administration of affirmative procurement initiatives shall be inclusive of architectural and engineering, construction, professional services, and nonprofessional services, and commodities procurements. Industry categories may also be referred to as "business categories."

*Joint venture.* An association of two (2) or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

*Local business enterprise ("LBE").* A firm having a principal place of business or a significant employment presence or a significant business presence in Richland County, South Carolina. This definition is subsumed within the definition of "small local business enterprise."

*Non-professional services.* Non-construction, non-architectural, and non-engineering services that are other than professional services, and such "other" services that do not require any license or highly specialized training and credentials to perform.

*Office of Small Business Opportunity.* The office which shall manage and administer the SLBE Program (see Section 2-639 et seq.) and shall undertake other functions and duties as assigned by the county administrator or county council.

*Points.* The quantitative assignment of value for specific evaluation criteria in the selection process.

*Prime contractor.* The vendor or contractor to whom a purchase order or contract is awarded by the county for purposes of providing goods or services to the county.

*Principal place of business.* A location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent (50%) of its overall customers or sales dollars, or through which no less than twenty-five percent (25%) of its employees are located and domiciled in the County of Richland and/or Richland County.

*Professional services.* Any non-construction and non-architectural and engineering services that require highly specialized training and/or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

*Responsive.* A firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE program requirements.

*Sheltered market.* An affirmative procurement initiative designed to set aside a county contract bid for bidding exclusively among SLBE firms.

*Significant business presence.* A physical office within Richland County through which a firm obtains no less than fifty percent (50%) of its overall customers or sales dollars.

*Significant employee presence.* Having a physical office within Richland County and no less than twenty-five percent (25%) of a firm's total number of full and part-time employees are domiciled in Richland County.

*SLBE certification/re-certification application (SLBE Form-R).* This form shall be completed by small local business enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the county's small local business enterprise program. This form shall be completed every two (2) years by certified small local business enterprises by the anniversary date of their original certification.

*SLBE directory.* A listing of the small local businesses that have been certified by the procurement department for participation in the SLBE program.

*SLBE plan execution certification (SLBE Form-C).* The form certifying the general contractor's intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

*SLBE schedule for subcontractor participation (SLBE Form-S).* This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the director of the Office of Small Business Opportunity before contract award.

*SLBE schedule of size standard eligibility requirements.* A document separate and apart from this division, adopted by the county council, which defines the SLBE size standard eligibility requirements, in number of employees and annual gross revenue dollars, applicable to the SLBE program. The size standards shall be reviewed not less than annually and adjusted periodically by the county council to meet changes in market conditions.

*SLBE unavailability certification (SLBE Form-U).* This form demonstrates a bidder's unsuccessful good faith effort to meet the small,

local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

*Small business enterprise ("SBE").* A small business enterprise is any for-profit enterprise as defined by S.C. Code 1976, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the size standard limitations as adopted and periodically amended in the SLBE schedule of size standard eligibility requirements. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the procurement department as an SLBE.

*Small local business enterprise ("SLBE").* An independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a "small business enterprise" and a "local business enterprise."

*Spend dollars.* Dollars actually paid to prime and/or subcontractors and vendors for county contracted goods and/or services.

*Subcontractor.* Any vendor or contractor that is providing goods or services to a prime contractor in furtherance of the prime contractor's performance under a contract or purchase order with the county.

*Suspension.* The temporary stoppage of a SLBE firm's participation in the county's contracting process under the SLBE program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 016-14HR, §§ II, III, 5-6-14; Ord. No. 050-14HR, § I, 10-21-14; Ord. No. 058-16HR, § II, 12-6-16)

## **Sec. 2-640. Program objectives and general requirements.**

(a) To meet the objectives of this program, the county is committed to:

(1) Increasing the participation of small local business enterprises ("SLBEs") in county contracting, and, to the extent possible, ameliorating through race- and gender- neutral means, any disparities in the participation of minority business enterprises or women business enterprises on county contracts;

(2) Regular evaluation regarding the progress of the program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;

(3) Establishing one (1) or more goal setting committee(s) ("GSCs") to provide guidance on the implementation of the rules under this policy;

(4) Continuous review and advice of the GSC in administering the policy and goals herein. The county's director of the Office of Small Business Opportunity shall determine the size of each GSC that is to be chaired by the procurement director. The procurement director shall also appoint the remaining members of the GSC from the county's procurement personnel and other county departments affected by this program; and

(5) Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and/or performing on county contracts, and of providing the means of tracking actual county bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, prime contractors and subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the county.

(b) At a minimum, the procurement director shall:

(1) Report to the county administrator and the county council on at least an annual basis as to the county's progress towards satisfying SLBE program objectives;

(2) Formulate program waivers, improvements and adjustments to the GSC goal-setting methodology and other program functions;

(3) Have substantive input in a contract specification review process to be undertaken in advance of the issuance of county's RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority- owned, and other businesses;

(4) Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and

(5) Monitor and support the implementation of the rules under this program, and where appropriate, make recommendations to the county administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the county council.

(c) At a minimum, each goal setting committee shall:

(1) Meet as often as it deems necessary to accomplish its duties but not less than twice annually;

(2) Develop the SLBE goal setting methodology to be implemented by the director of the Office of Small Business Opportunity on

a contract-by-contract basis; and

- (3) Monitor and support the implementation of the rules under this program policy.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 058-16HR, § III, 12-6-16)

#### **Sec. 2-641. Eligibility for SLBE program.**

(a) For the purpose of this program, a firm will be certified as a small and local business enterprise (SLBE) with the procurement department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

- (1) It is an independently owned and operated for-profit business concern as defined by S.C. Code 1976, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;

- (2) It meets size standard eligibility requirements for small business enterprises as adopted and periodically amended in the SLBE schedule of size standard eligibility requirements;

Once the gross annual revenues of a business exceed the three (3)-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the procurement department as an SLBE in order for the joint venture to receive the benefits of the SLBE program;

- (3) The firm is a local business enterprise as defined in this division with a principal place of business or significant employee presence or significant business presence in Richland County as defined herein;

- (4) The firm has established its principal place of business or significant employee presence or significant business presence in Richland County for at least one (1) year prior to seeking certification as an SLBE; and

- (5) In the year preceding the date of the initial certification application, the applicant has not received more than one million (\$1,000,000) dollars in county contract payments as a result of contract awards from the county achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the director of the Office of Small Business Opportunity or designated procurement department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the director of the Office of Small Business Opportunity stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one (1) year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE Form-R) every two (2) years to the procurement department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a principal place of business or significant employment presence in Richland County in accordance with this Section 2-641. To qualify for re-certification, an SLBE's maximum employment numbers and annual gross revenues average for the three (3) fiscal years immediately preceding the application for re-certification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the director of the Office of Small Business Opportunity or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE program is maintained.

(e) For purposes of this program, a firm will be certified as an emerging SLBE by the procurement department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the emerging SLBE eligibility criteria as set forth below:

- (1) The firm complies with SLBE criteria as specified above in Section 2-641 (a)(1), (a)(3) and (a)(4);

- (2) The firm has been in existence for less than five (5) years;

- (3) The firm has no more than five (5) full-time employees; and

- (4) The firm's annual gross revenues as averaged over the life of the firm are less than one million (\$1,000,000 dollars).

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 016-14HR, § IV, 5-6-14; Ord. No. 050-14HR, § II, 10-21-14; Ord. No. 058-16HR, § III, 12-6-16)

#### **Sec. 2-642. Graduation and suspension criteria.**

(a) A bidder may not count towards its SLBE or emerging SLBE participation the amount subcontracted to an SLBE or emerging SLBE firm that has graduated or been suspended from the program as follows:

- (1) An SLBE firm shall be permanently graduated from the SLBE program after it has received a cumulative total of five million

(\$5,000,000) dollars of county- funded prime contract or subcontract payments in at least five (5) separate contracts since its initial certification as an SLBE firm;

(2) An SLBE firm shall be permanently graduated from the SLBE program after its three (3) fiscal year average gross sales exceeds the size standard eligibility requirements;

(3) An SLBE firm shall be temporarily suspended by the director of the Office of Small Business Opportunity for the balance of any fiscal year after it has received a cumulative total of one and one-half million (\$1,500,000) dollars in payments as a prime contractor and/or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in affirmative procurement initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;

(4) An SLBE firm may have its SLBE eligibility permanently revoked by the director of the Office of Small Business Opportunity if it fails to perform a commercially useful function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from affirmative procurement initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;

(5) An emerging SLBE firm shall be permanently graduated from emerging SLBE status after it has received a cumulative total of two and one-half million (\$2,500,00) dollars of county-funded prime contracts or subcontract payments in at least five (5) separate contracts since its initial certification as an emerging SLBE firm;

(6) An emerging SLBE firm shall be permanently graduated from emerging SLBE status once its three (3)-year average annual gross sales exceeds two million (\$2,000,000) dollars; and

(7) An emerging SLBE firm shall be temporarily suspended from emerging SLBE status by the director of

(b) The director of the Office of Small Business Opportunity shall provide written notice to the SLBE firm or emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 058-16HR, § III, 12-6-16)

**Sec. 2-643. Appeals.**

A business concern that is denied eligibility as an SLBE or as an emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the county administrator. A written notice of appeal must be received by the county administrator within fifteen (15) days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the director of the Office of Small Business Opportunity, or designee (other than the director of the Office of Small Business Opportunity), shall also participate in a hearing conducted by the county administrator or the county administrator’s designee soon as practicable. The decision of the county administrator, or designee, shall be the final decision of the county.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 058-16HR, § III, 12-6-16)

**Sec. 2-644. Affirmative procurement initiatives for enhancing SLBE and emerging SLBE contract participation.**

(a) The county in conjunction with the appropriate contract officer and the director of the Office of Small Business Opportunity may utilize the following affirmative procurement initiatives in promoting the award of county contracts to SLBEs or emerging SLBEs.

(1) *Bonding and insurance waiver.* The county, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the county determines that the bonding and or insurance requirements would deny the SLBE or emerging SLBE an opportunity to perform the contract which the SLBE or emerging SLBE has shown itself otherwise capable of performing.

(2) *Price preferences.* The county may award a contract to a SLBE or emerging SLBE which submits a bid within ten percent (10%) (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than twenty- five thousand (\$25,000) dollars higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the county's budgeted price for the contract.

(3) *Evaluation preferences.* The county may reserve up to twenty percent (20%) of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or emerging SLBE firms, or to joint ventures that have SLBE and/or emerging SLBE partners:

a. For architectural and engineering, professional services, other services, and design/build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The determination will be made using the suggested model outlined in the Point Evaluation Table below:

<i>POINT EVALUATION TABLE</i>	
<i>10 Points for SLBE Participation</i>	<i>20 Points for SLBE Participation</i>
<i>POINT EVALUATION TABLE</i>	
<i>10 Points for SLBE Participation</i>	<i>20 Points for SLBE Participation</i>
> 51% =10 points	>51% = 20 points
> 45% = 7 points	> 45% =17 points

> 40% = 6 points	> 40% =16 points
> 35% = 5 points	> 35% =14 points
> 30% = 4 points	> 30% =12 points
> 25% = 3 points	> 25% =10 points
> 20% = 2 points	> 20% = 8 points
> 15% = 1 point	> 15% = 6 points
	> 10% = 4 points

Contractors may be evaluated on their SLBE or emerging SLBE participation by utilizing the following schedule, which is most often used by architectural and engineering:

<i>Points Awarded</i>	<i>% of Participation Criteria</i>
5.0 51- 100	Proposals by registered SLBE owned and/or controlled firms
4.0 36-50	Majority prime with registered SLBE participation
3.0 30-35	Majority prime with registered SLBE participation
2.0 24-29	Majority prime with registered SLBE participation
0 0-23	Less than the goal for registered SLBE participation

(4) *Mandatory subcontracting.*

a. The goal selection committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to forty percent (40%), be subcontracted to eligible SLBEs or to eligible emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the mandatory subcontracting goal for that contract.

b. An SLBE or emerging SLBE prime contractor may not subcontract more than forty-nine percent (49%) of the contract value to a non-SLBE.

c. A prospective bidder on a county contract shall submit at the time of bid SLBE - Form S providing the name of the SLBE or emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or emerging SLBE, and the work to be performed by the SLBE or emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the director of the Office of Small Business Opportunity for good cause by submitting the SLBE unavailability certification form to the director of the Office of Small Business Opportunity at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of good faith efforts by the bidder and careful review by the director of the Office of Small Business Opportunity. The director of the Office of Small Business Opportunity shall base his or her determination on a waiver request on the following criteria:

1. Whether the requestor of the waiver has made good faith efforts to subcontract with qualified and available SLBEs or emerging SLBEs;
2. Whether subcontracting would be inappropriate and/or not provide a "commercially useful function" under the circumstances of the contract; and
3. Whether there are no certified SLBE or emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the director of the Office of Small Business Opportunity, failure of a prime contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the director of the Office of Small Business Opportunity, failure of a prime contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the county, debarment from performing future county contracts, and/or any other remedies available under the terms of its contract with the county or under the law.

f. A prime contractor is required to notify and obtain written approval from the director of the Office of Small Business Opportunity in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or emerging SLBE subcontractor. Failure to do so shall constitute a material breach of its contract with the county.

(5) *Sheltered market.*

a. The director of the Office of Small Business Opportunity and the appropriate county contracting officer may select certain contracts which have a contract value of five hundred thousand (\$500,000) dollars or less for award to a SLBE or a joint venture with a SLBE through the sheltered market program. Similarly, the director of the Office of Small Business Opportunity and the appropriate county contracting officer may select certain contracts that have a value of fifty thousand (\$50,000) dollars or less for award to an



emerging SLBE firm through the sheltered market program.

b. In determining whether a particular contract is eligible for the sheltered market program, the county's contracting officer and director of the Office of Small Business Opportunity shall consider: whether there are at least three (3) SLBEs or emerging SLBEs that are available and capable to participate in the sheltered market program for that contract; the degree of underutilization of the SLBE and emerging SLBE prime contractors in the specific industry categories; and the extent to which the county's SLBE and emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the sheltered market program or the apparent low bid is determined in the procurement director's discretion to be too high in price, the contract shall be removed from the sheltered market program for purposes of rebidding.

(6) *Competitive business development demonstration project.*

a. With the concurrence of the director of the Office of Small Business Opportunity, the appropriate county contracting officer may reserve certain contracts for placement into a competitive business development demonstration project ("CBD demonstration project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such county contracts. The purpose for the placement of a contract into the CBD demonstration project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the county.

b. Contracts reserved for CBD demonstration projects shall be subject to a request for proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future county contracts and to successfully compete in the industry.

c. The director of the Office of Small Business Opportunity shall be required to select SLBE candidate firms for participation on such CBD demonstration projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 028-16HR, § I, 7-26-16; Ord. No. 058-16HR, § III, 12-6-16)

**Sec. 2-645. SLBE program performance review.**

(a) The director of the Office of Small Business Opportunity or designee shall monitor the - implementation of this policy and the progress of this program. On at least an annual basis, the director of the Office of Small Business Opportunity or designee shall report to the county administrator and county council on the progress of achieving the goals established for awards to certified SLBE and emerging SLBE firms, reporting both dollars awarded and expended. In addition, the director of the Office of Small Business Opportunity or designee shall report on the progress in achieving the stated program objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on county contracts.

(b) The county shall periodically review the SLBE program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated program objectives. The county council shall conduct a public hearing at least once every two years in order to solicit public comments on the program.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 058-16HR, § III, 12-6-16)

**Sec. 2-646. Conflicts.**

To the extent language in this division conflicts with other language in Article X, the language in this division controls only with respect to contracts wherein the small local business enterprise program is being applied by the director of the Office of Small Business Opportunity. In all other respects, prior language in this article shall remain in full force and effect.

(Ord. No. 049-13HR, § II, 9-17-13; Ord. No. 058-16HR, § III, 12-6-16)