

CITY OF OAKLAND

AGENDA REPORT

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OFFICE OF THE CITY CLERK
OAKLAND

TO: 2011 OCT 07 PM 6:25 Office of the City Administrator

ATTN: Deanna J. Santana

FROM: Community and Economic Development Agency

DATE: November 1, 2011

RE: A Supplemental Report on the Proposed Ordinance Amending Ordinance 12389 C.M.S. to Add Local and Small Local Business Contracting Requirements to Oakland's Local and Small Local Business Enterprise Program Specific to the Demolition and Remediation Carried Out at the Oakland Army Base

SUMMARY

During the October 11, 2011 Community and Economic Development Committee meeting, staff was directed to prepare a Supplemental Report on the proposed Ordinance Amending Ordinance 12389 C.M.S. regarding local contracting requirements for demolition and remediation work on the Oakland Army Base.

The items the Committee directed staff to address, in addition to amendments to the proposed made by the Committee, are as follows:

1. Describe the field of certified Local Business and Small Local Business Enterprises (LBE/SLBE) in Oakland which are qualified to compete for contracts under the proposed Ordinance Amendment conditions;
2. Describe ways to add provisions which would encourage companies to hire the hardest to employ, such as formerly incarcerated residents; and
3. Identify any unforeseen challenges or issues that may arise in the implementation of the proposed Ordinance Amendment.

Legal Opinion

The City Attorney's Office will provide its opinion regarding any legal considerations it may have regarding the proposed Ordinance Amendment separate from this Supplemental Report.

Field of Qualified LBE/SLBE Contractors

The Public Works Agency Environmental Services Division with verification from the Office of Contract Compliance performed a search of certified LBE/SLBE companies qualified to perform all or parts of a demolition and remediation construction contract, and provide the following results:

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Type of Work	Required License/Certification	Number of Certified LBE	Number of Certified SLBE	Total Certified LBE/SLBE
Demolition Only	General Contractor (A or B)	34	91	125
Asbestos Removal Only	Asbestos Certification (ASB)	1	3	4
Demolition + Asbestos Removal	General Contractor (A) + Asbestos Certification (ASB)	3	3	6
Excavation Only	Earthwork and Paving (CI2)	2	1	3
Hazardous Waste Removal Only	Hazardous Substance Removal Certification (HAZ)	7	6	13
Excavation + Hazardous Waste Removal	Earthwork and Paving (CI2) + Hazardous Substance Removal Certification (HAZ)	1	1	2
Trucking and Disposal of Hazardous Waste	CA Hazardous Material Transportation License + DTSC Hazardous Waste Transporter Registration + DOT Hazardous Materials Transportation Certification	0	2	2

As the data indicate, Oakland has a number of certified LBE/SLBE firms that could potentially perform demolition and remediation work remaining on the Army Base. The prime contractor does not have to perform 50% of the actual work, which is a standard preference but not a hard requirement for construction contracts. The prime contractor must have a General Contractor A or B License. The universe of that pool in Oakland is 125, although not every contractor with these licenses specializes in demolition and remediation. Nonetheless, the pool for primes appears to be robust. It is not known at this time what percentage of the General Contractors' core workforces are Oakland residents.

Ways to Encourage Employment of Hardest-to-Serve

Current Local Employment Program policy requires that 50% of the work hours on a craft-by-craft basis be performed by Oakland residents. The proposed Ordinance Amendment requires that at least 33% of the prime contractor's workforce be Oakland residents.

Current Local Employment Program policy does not support a requirement for hiring people with barriers to employment, such as the formerly incarcerated. That said, the City Council can approve special provisions whereby contractors are offered incentives to hire disadvantaged workers. While hiring of the formerly incarcerated may not be a condition of contract award, bidders may be offered incentives to hire this population by counting each hour they work as 1.5 hours towards meeting the 50% local hours worked requirement.

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Staff also recommends that all new hires for demolition and remediation work subject to this local contracting Ordinance Amendment come by way of referrals from local pre-apprenticeship training programs, which serve local residents with barriers to employment. This provision should pertain to entry-level work and not to work that requires journey-level skills or special certifications.

Identify Unforeseen Challenges or Issues

With regard to demolition and remediation work currently being contemplated on the Army Base, staff requests confirmation of, or clarification on, the following assumptions:

- A. The proposed Ordinance Amendment applies only to the Agency's portion of the Army Base;
- B. The proposed Amendment does not apply to the wide-scale site preparation and infrastructure construction project currently being master planned with the Master Developer and the Port. Local contracting and local hiring provisions for that work will be detailed in binding Development and Community Benefit Agreements, to be developed. In addition, federal contracting regulations, which do not currently apply, may apply to that future work;
- C. When referring to Remediation, the intent is for the proposed Amendment to apply to abatement, excavation, transport, and disposal of hazardous materials or non-universal hazardous wastes, excluding small-quantity spoils generated during field-testing. The distinction staff recommends for the implementation of the proposed Ordinance Amendment is that it apply to remediation work requiring a Construction Contract, and not routine investigation and documentation, which is currently being conducted by Environmental consultants through existing professional services contracts with Public Works;
- D. The \$9 million referred to in the proposed Ordinance Amendment represents the estimated balance of the Joint Environmental Remediation Fund established by the Agency and the Port of Oakland. These funds can be used for work specific to the Remediation Action Plan/Risk Management Program (RAP/RMP) approved by the U.S. Army and overseen by the Department of Toxic Substances Control. Demolition is not an allowable use of those funds. Investigation and remediation of hazardous materials that exceed Industrial Standards, as well as documentation and reporting necessary to obtain Regulatory Closure of RAP/RMP sites, is the general framework of allowable uses for the Joint Environmental Remediation Fund.

Recommendations

Staff supports the intent of the proposed Ordinance Amendment to provide opportunities for local businesses to perform work on the City's portion of the Army Base and to employ as many Oakland residents as possible. To achieve these goals, staff recommends following:

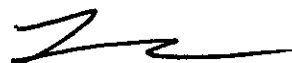
- 50% or more of the work shall go to certified LBE/SLBEs, in addition to the requirement that the prime contractor be a certified LBE/SLBE;
- 50% or more of the workers' hours shall be performed by Oakland residents;
- Employment opportunities shall be available for formerly incarcerated and other Oakland residents with barriers to employment by counting each hour they work as 1.5 hours toward meeting the 50% local hours worked requirement; and
- In line with the City's First Source Hiring policy, contractors shall be required to seek referrals for new hires from local pre-apprenticeship training programs.

These goals are consistent with the work City, community, and labor leaders are doing to develop a package of Community Benefits to be derived from the Army Base project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council accept this supplemental report and its recommendations.


Respectfully submitted,


Fred Blackwell, Assistant City Administrator
Community and Economic Development Agency

Reviewed by:
Gregory D. Hunter, Deputy Director
Economic Development and Redevelopment

Prepared by:
Al Auletta, Redevelopment Area Manager

APPROVED AND FORWARDED TO THE
CITY COUNCIL:


Office of the City Administrator

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