



FILED
OFFICE OF THE CITY CLERK
OAKLAND
2012 AUG 30

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Davillier-Sloan Professional Services
Agreement

DATE: August 29, 2012

City Administrator
Approval

Date

8/30/12

COUNCIL DISTRICT: #3

RECOMMENDATION

Staff recommends that the City Council approve:

A Resolution Authorizing the City Administrator to Execute a Professional Services Agreement with Davillier-Sloan, Inc. to Advise on and Facilitate the Development of a Comprehensive Community Benefits Program for the Oakland Army Base, in an Amount Not-To-Exceed \$95,000

EXECUTIVE SUMMARY

Staff is requesting authorization to enter into a professional services agreement with Davillier-Sloan for assistance in implementing the Project Labor Agreement and Community Jobs Agreement for the Army Base project. Their technical advice will also include strategies for working with State and Federal granting agencies to maximize the implementation of the project's local hiring and local contracting goals. This recommended contract was procured through an advertised competitive bidding process conducted by the Office of Contracts and Compliance. Davillier-Sloan was the only respondent.

OUTCOME

The Professional Services Agreement (PSA) will provide City staff with necessary assistance to implement the Army Base Project Labor Agreement and Community Jobs Policy for the City-owned portion of the Oakland Army Base (OAB). The consultant's work will include extensive involvement of and coordination with key stakeholder groups and entities, working with staff to identify and resolve issues of concern among key stakeholder groups, and developing strategies

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to work with federal granting agencies while advancing the City's local hiring and contracting goals.

BACKGROUND

In 2008, the Redevelopment Agency (Agency) issued a Request for Proposals (RFP) for a master developer for the OAB. Among the benefits expected from the development of the property were the creation of job and business opportunities for the West Oakland community and other Oakland residents; revenue to fund community services, programs, or facilities; environmental enhancement. When the Agency entered into an Exclusive Negotiating Agreement (ENA) with AMB/CCG (later reorganized as Prologis/CCIG) (Developer) for the development of the OAB, the expectations were reiterated in the Community Benefits Term Sheet attached to the ENA. In December 2009, CCG, on its own initiative, entered into a Memorandum of Understanding with the Alameda Labor Council (AFL/CIO), Oakland ACORN, Center for Third World Organizing, East Bay Alliance for Sustainable Economy, Oakland Community Organizations, and the Workforce Collaborative to work in good faith towards achieving the following:

The Core goal of the Oakland Army Base development is to deliver a sustainable, productive, profitable, growing enterprise that yields benefits for (alphabetically) business, government, residents and workers.

Although this group invested much time and energy in drafting a Community Jobs Agreement, the document was not completed or executed. During the course of negotiations with the Developer, the City Council determined that the City should take the lead in developing a Community Benefits Agreement within which the City would negotiate and implement the suite of programs that the OAB project must fulfill.

In November 2010, Councilmember Nancy Nadel began hosting town hall meetings on Army Base Community Benefits, which included discussions on local business participation and environmental concerns. Staff addressed these issues in two separate reports to the Community and Economic Development (CED) Committee. In the April 12, 2012 report regarding environmental community benefits, staff recommended incorporating the community's recommendations into the City's Standard Conditions of Approval and mitigation measures. In the May 8, 2012 report regarding contracting benefits, staff recommended applying the City's recently adopted 50% Local/Small Local Business Enterprise (L/SLBE) Program and social justice policies to OAB contracting.

In December 2010, Councilmember Jane Brunner began facilitating sessions with the Army Base Jobs Working Group, which focused on local hiring. The Working Group sessions resulted in a set of recommendations that formed the basis of the Community Jobs Policy Framework for the

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OAB. Staff first presented the Jobs Policy framework to CED Committee on January 10, 2011, and further articulated it on January 24, 2012.

The Community Jobs Policy Framework has guided the City's negotiation of (1) Jobs Policies regarding hiring and employment at the OAB; (2) a Cooperation Agreement, which, among other things, commits the City to (i) ensure the Developer's compliance with the Jobs Policies, (ii) enter into a Project Labor Agreement (PLA) with the Building and Construction Trades Council for the publicly funded portion of OAB construction, and (iii) require the Developer to enter into its own PLA with the Building Trades for all other portions of project construction; and (3) a PLA, which secures labor peace during construction.

SCOPE OF SERVICES

The scope of services for the Davillier-Sloan contract will include:

A. Technical Advice

Consultant will assist and advise the City on a number of issues related to securing an implementing comprehensive, equitable, feasible, innovative and legally-defensible Community Jobs Agreement, Project Labor Agreement, and other Community Benefits terms, including, but not limited to:

1. Developing strategies to work with federal granting agency hiring and contracting requirements to advance local hiring and contracting goals;
2. Identifying components of a Project Labor Agreement with the City consistent with local hiring priorities based upon the Community Jobs Agreement; and
3. Ensuring that the Community Benefits terms and conditions enable and support the Commercial Viability of the former Oakland Army Base development project.

B. Facilitation and Representation

Consultant will facilitate the process of reaching agreement on and implementing Community Jobs and Project Labor and other Community Benefit terms with Community, Business, Labor and Government stakeholders. Tasks may include:

1. Working with representatives of the West Oakland Community Advisory Group, Revive Oakland, Oakland WORKS, Labor, Business, and other community and government stakeholders to align to the greatest extent possible Community priorities with the terms of the Community Jobs Agreement and Project Labor Agreement;

2. Working with the Army Base Project Manager and the Master and other Army Base developers in negotiating terms for various development agreements that are consistent with the terms ultimately approved by the City Council; and
3. Assisting with the interpretation and refinement of terms as they pertain to the Operations jobs, including "Banning the Box," and restrictions on the use of temp agencies, for example.

C. Legal Advice

The City Attorney's office will continue to oversee all legal advice regarding this matter. The Consultant will be required to brief, consult with, and take the direction of the City Attorney's office on legal matters.

ANALYSIS

The complete build-out of the OAB will be accomplished through multiple developers. For the OAB to be a truly transformative project, there needs to be an over-arching community benefits program that will apply to all OAB developers. Staff has been working with labor and community-based groups, but requires assistance to secure a comprehensive, equitable, feasible, innovative and legally-defensible Community Benefits package that includes a binding Community Jobs Agreement and Project Labor Agreement, and other Community Benefits terms, including, but not limited to:

1. Strategies to work with federal granting agency hiring and contracting requirements to advance local hiring and contracting goals;
2. Ensuring consistency between the Project Labor Agreement with City and local hiring priorities and the Community Jobs Agreement; and
3. Community Benefits terms and conditions that enable and support the commercial viability of the former Oakland Army Base development

PUBLIC OUTREACH/INTEREST

Community Benefits, particularly related to jobs, has been a topic of considerable community interest. The meetings hosted by Councilmembers Nadel and Brunner were well attended, and upwards of 140 members of the public have signed up to voice their opinion at City Council meetings when Community Benefits were discussed.

To ensure the Community Benefits Program adequately reflects community interests and needs and is implementable, on April 20, 2012, staff issued a Request for Proposals for a consultant to

assist with the development of the Program. The City received one proposal in response from Davillier-Sloan, Inc. The Contracts and Compliance Unit evaluated Davillier-Sloan for compliance with the L/SLBE participation requirement and Equal Benefits Ordinance (EBO), and found that Davillier-Sloan exceeds the minimum 50% L/SLBE participation requirement. The firm was not EBO compliant at the time of review, but has since come into compliance.

COORDINATION

Staff has been coordinating with Contract Compliance and the Office of the City Attorney on this PSA.

COST SUMMARY/IMPLICATIONS

The contract is capped at \$95,000. Funding is available in OBRA Leasing & Utility Fmd (5671), Oakland Army Base Organization (02444), OBRA Leasing & Utility Project (P294110), and will be allocated to a Project to be established.

This funding was transferred to the City from the Oakland Army Base Project Area on January 31, 2012 through the Funding Agreement entered into by the City and the Agency on March 3, 2011. The PSA does not impact the City's General Purpose Fund.

Under recently passed redevelopment agency dissolution legislation, however, the State Controller may assert that the Funding Agreement is invalid and, if such a challenge is successful, the City's General Fund may be impacted. While this issue is not yet finally resolved, staff believes the Funding Agreement's validity will prevail.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The City has not previously contracted with Davillier-Sloan. Staff has gotten good feedback about their work on the Maritime and Aviation Project Labor Agreement (MAPLA), and is impressed with Mr. Sloan's extensive knowledge and experience with project labor agreements. Staff is also pleased with the work of Julian Gross on the Community Jobs and Project Labor Agreements, and who is partnering with Mr. Sloan on this project.

SUSTAINABLE OPPORTUNITIES

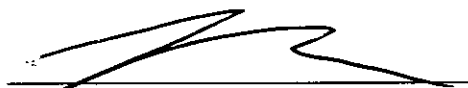
Economic: A Comprehensive Community Benefits Program will let developers know what will be expected and required of them and should facilitate the negotiation of development agreements and speed development of the OAB.

Environmental: Community Benefits include environmental considerations. With the assistance of the consultant, staff may be able to determine an approach to development that is commercially viable and also provides environmental enhancements.

Social Equity: A Comprehensive Benefits Program will ensure that development of the OAB will benefit the West Oakland community, which has been most impacted by the Base closing.

For questions regarding this report, please contact Al Auletta, Program Manager, at 238-3752.

Respectfully submitted,



FRED BLACKWELL
Assistant City Administrator

Reviewed by:
Al Auletta, Program Manager
Office of Neighborhood Investment

Prepared by:
Hui Wang, UEA III
Office of Neighborhood Investment

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH DAVILLIER-SLOAN, INC. TO ADVISE ON AND FACILITATE THE DEVELOPMENT OF A COMPREHENSIVE COMMUNITY BENEFITS PROGRAM FOR THE OAKLAND ARMY BASE, IN AN AMOUNT NOT-TO-EXCEED \$95,000

WHEREAS, the development of the former Oakland Army Base (OAB) is expected to bring community benefits, including the creation of jobs and business opportunities; and

WHEREAS, the City in collaboration with community-based groups and labor unions developed for the OAB a Construction Jobs Policy and an Operations Jobs Policy that sets forth certain requirements regarding hiring and employment for, respectively, the construction of the City's planned public improvements for the OAB and the operation phases of private improvements; and

WHEREAS, the City has been negotiating the terms of a Project Labor Agreement and Community Jobs Agreement with specified labor and community-based organizations to advance the goals of the Jobs Policies; and

WHEREAS, staff requires assistance to develop a comprehensive Community Benefits Program that is equitable, feasible, consistent with City and local hiring priorities, and includes a binding Community Jobs Agreement and Project Labor Agreement; and

WHEREAS, the Office of Neighborhood Investment working with the Contracts and Compliance Unit undertook a formal competitive procurement process and issued a Request For Proposals (RFP) for a community benefits consultant; and

WHEREAS, Davillier-Sloan, Inc. was the only respondent to the RFP; and

WHEREAS, Davillier-Sloan is qualified to perform the scope of services, exceeds the Local/Small Local Business Enterprise participation requirements, and is the only responsive bidder; and

WHEREAS, the City finds that the community benefits consulting contract will be for services of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now, therefore, be it

RESOLVED: That the City Administrator is authorized to execute a Professional Services Agreement with Davillier-Sloan, Inc., the lowest responsible, responsive bidder, in the amount not to exceed \$95,000; and be it

FURTHER RESOLVED: That funding for the contract shall be allocated from OBRA Leasing & Utility Fund (Fund 5671), Oakland Army Base Organization (02444), OBRA Leasing and Utility Project (P294110) to a Project to be established; and be it

FURTHER RESOLVED: That the contract shall be for a one-year period with an optional one-year extension on the part of the City; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or her designee to take any action with respect to this contract consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED: That, prior to execution, the City Attorney must approve the contract as to form and legality, and a copy shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California