

OFFICE OF THE CITY ADMINISTRATOR  
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**REDEVELOPMENT AGENCY  
AND THE CITY OF OAKLAND**

**Agenda Report**

TO: Office of the City Administrator/Agency Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: July 10, 2007

RE: **An Informational Report On The City's Local Contracting And Hiring Goals For The Fox Theater Renovation Project Including The Hiring Status Of Local And Small Local Businesses And The Type And Use Of Any Assistance Programs Used On The Project For Businesses In Need Including, The Commitment To Hire Previously Incarcerated People**

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**SUMMARY**

In May 2007, Council requested an informational report regarding the status of hiring sub-contractors on the Fox Renovation Project. The request focused on the number of local and small local businesses currently hired and how that compares with the City's business hiring requirements as well as the forecast of hiring numbers for the duration of the project.

The City of Oakland currently has a requirement of 20% local business enterprises (LBE) of which at least half, or 10%, of the total must be small local business enterprises (SLBE) on all projects that are either funded by or partially funded by the City/Agency. On July 18, 2006, California Capital Group (CCG), the prime consultant on the Fox Project, set a goal of 50% LBE and 20% SLBE on this project.

As of May 15, 2007, on the construction side of the project, if the (1) existing and (2) projected local and small local business participation numbers are totaled, the project will attain **51% LBE/SLBE (31% LBE and 21% SLBE)**.

In addition, the more than \$6.1 million in soft costs that are part of the project are at **73% LBE/SLBE (50% LBE and 23% SLBE)** participation levels.

**FISCAL IMPACT**

This is an informational report and has no fiscal impact on the Agency.

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## **BACKGROUND AND EFFORTS TO ASSIST AND HIRE LOCAL BUSINESSES**

On December 15, 2006 the Agency entered into a Disposition and Development Agreement (DDA) with Fox Oakland Theater, Inc., a non-profit, public benefit corporation for the purpose of financing and renovating the historic Fox Theater into a performing arts center and home to the Oakland School for the Arts. The DDA requires the developer and all contractors and sub contractors to attempt to meet a local business participation goal of at least 50% and CCG agreed to small local goal of at least 20%.

In late December 2006, the Agency signed a contract with Turner Construction Company for a Guaranteed Maximum Price (GMP) of \$43,883,000 to renovate the historic Fox Theater. This contract is subject to the goals stated in the DDA.

To ensure DDA compliance in meeting the stated goals, the Agency's consultant, CCG, working with Turner Construction, has modified their company policies and created and adopted new programs to meet the DDA requirements within the framework provided by the budget and schedule, as well as City policy. Together, they developed and implemented the following strategies and programmatic elements before and during the construction phase of the project:

### **1. Secured a Council Resolution for Negotiated Contracts Instead of Low Bid Contracts**

In July of 2006 staff requested, and the Council granted, a waiver to the public works procurement process. This enabled Turner to enter into GMP, allowing FOT to close the financing by the New Market Tax Credit deadline, and leave the procurement (buy-out) open to promote contracting opportunities and help recruit qualified LBE / SLBE participation and assist DBE firms to increase their capacity. It also allows CCG and Turner to negotiate with target firms to enhance their participation and social responsibility.

### **2. Conducted Extensive Outreach Activities**

Since early 2005, CCG has sponsored 18 separate events to attract local contractors to the project. They have co-sponsored the annual Minority Economic Development Summit with Councilmember Larry Reid and have held more than 50, one-on-one meetings with local minority and women owned firms. They have sponsored two separate television programs on O.U.R.TV and bought ads in the Oakland Post, Oakland Tribune and San Francisco Chronicle to advertise the project. They hired Mr. Darrell Carey to provide outreach to the project and they negotiated with Turner Construction to have a full time employee dedicated to assist in the efforts to date.

### **3. Established a Bid Assistance Center**

In April of 2006, CCG opened and operated a full service bid assistance center where Mecca Management & Insurance Agency, Inc. (Mecca) assisted potential subcontractors that were interested in working on the project. The office provided access to computers,

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current software, and a place for potential bidders to review plans and specifications or check out a plan set (\$2,800 value) at no cost. They obtained technical support from qualified consultants and financial support and insurance support from others.

#### 4. Continue to Package Subcontracts

CCG and Turner increased the number of subcontractors participating on the project threefold by providing more digestible sized contracts in a multitude of disciplines. Although this effort, which is ongoing, increases the management time needed to direct the project, it also increases dramatically the participation of target groups.

#### 5. Provided Turner Management School

Turner Construction, as a part of their outreach efforts, hosts an ongoing three week management course for subcontractors. Skills covered are scheduling, budgeting, job control systems and pay application review, to mention some of the courses.

#### 6. Prolonged the Procurement Process

CCG and Turner extended the procurement schedule for this project to 240 days rather than the typical 90 day procurement schedule on a typical project of equal size and complexity. This affords all local and small local firms interested in bidding on the project more time to organize and procure assistance to compete. It is important to note that this process can put the project budget at some risk because the targeted local subcontractors can discourage other subcontractors that might bid the job for less money.

#### 7. Continue to Provide Underwriting Assistance

CCG and Mecca have modified Mecca's role to continue their assistance with the loan application process for potential East Bay Conversion and Reinvestment Commission (EBCRC) borrowers. The project covered the costs of the balance of CEDA's contract with Mecca, and is currently providing 100 % cost coverage of the Mecca contract.

#### 8. EBCRC Loan Program

In March 2006 CCG entered into a partnership with EBCRC in collaboration with Sandre Swanson. CCG provided \$75,000 to EBCRC to fund the loan loss reserve for an EBCRC loan from California Economic Development Lending Initiative (CEDLI). These funds were used to match an Economic Development Initiative Grant and make over \$2 million dollars available as a revolving loan to subcontractors on the project. Several firms have applied, including Gilmore Steel, the first successful recipient. They were provided with a \$65,000 loan in Phase I of the project, which they re-paid on time. This loan made it possible for Gilmore to perform \$224,219 worth of work in Phase I. Gilmore obtained an additional \$75,000 loan, and as a result, has been qualified and contracted to perform an additional \$704,000 worth of work on the project. The Forest City Company, which is developing the neighboring residential project, was encouraged by CCG to donate

\$100,000 to EBCRC, allowing EBCRC to increase their lending capacity by \$500,000. CCG has also presented the program to other companies such as Kaiser and McCarthy Construction, to solicit their assistance in this effort.

#### 9. Established Quick Pay

In February of this year, CCG was able to negotiate an advance payout schedule with Bank of America which gives Turner the ability to cut 15 to 30 days off of the subcontractor payment schedule. This allows small contractors, with little financial reserve, the ability to be paid quickly without risking financial hardship. Although initially resisted by CEDA staff and Bank of America because it allows Turner to control upwards of \$250,000 in any given month for work that would normally not be payable for 45 days, the program is working well. This program does not create any additional costs to the project and helps small local subcontractors meet their cash flow challenges as they attempt to grow their business.

### KEY OUTCOMES

The City of Oakland currently has a requirement of 20% local businesses (LBE) of which at least half (or 10%) of the total must be small local businesses (SLBE) on all projects that are either funded by or partially funded by the City/Agency. On July 18, 2006, California Capital Group (CCG), the prime consultant on the Fox Project, set the goal of 50% LBE and 20% SLBE on this project.

In late December 2006, the Agency signed a contract with Turner Construction Company for a Guaranteed Maximum Price (GMP) of \$43,883,000 to renovate the historic Fox Theater. This contract is subject to the goals stated in the DDA.

For the purpose of this report, the construction portion of the project (Turners contract) is differentiated from the soft costs associated with the project and is broken into three phases. All participation numbers have been checked and verified by the City's Office of Contract Compliance.

**Phase I Demolition and Abatement** has been concluded with a participation rate of 90% LBE/SLBE (18% LBE and 72% SLBE) (Attachment 1).

**Phase II Construction**, consists of two parts: (1) signed contracts as of May 2007 (Attachment 2), with a participation rate of 49% LBE/SLBE (36% LBE and 13% SLBE), and (2) forecasted contracts for this phase of the project, which is based on actual subcontractors identified, but with some contracts still to be negotiated and executed. The forecasted contracts have a participation rate of 28% LBE/SLBE (11% LBE and 17% SLBE). Combining both parts of Phase II shows an anticipated rate of 43% LBE/SLBE (29% LBE and 14% SLBE) Attachment 3).

**Phase III Project Allowances** is forecasted at 68% LBE/SLBE (41% LBE and 27% SLBE). These subcontractors have been identified and contacted but negotiations have not begun as of May 15, 2007 (Attachment 4).

**CONSTRUCTION TOTALS** On the construction side of the project, if the existing and forecasted numbers are totaled, the project will attain 51% LBE/SLBE (31% LBE and 21% SLBE). These figures exceed the goals established in the DDA.

**Soft Costs** The \$6.1 million in soft costs associated with the project are 73% LBE/SLBE (50% LBE and 23% SLBE).

### **Commitment to Hire Previously Incarcerated People**

Since the initial environmental phase of the Fox Theater project, CCG/Turner has continued to perform outreach to the post release, ex-offender programs such as Allen Temple Baptist Church and Cypress Mandela. To date, four ex-offenders have been hired on a work force development basis at the Fox, working for Alarcon Bohm Demolition and Bohm Environmental.

CCG/Turner has also been working closely with a subcontractor that is owned by an ex-offender that is also an LBE/SLBE firm in Oakland. CCG/Turner forecasts that this firm will receive in excess of \$500,000 worth of work on the project.

CCG has also held several meetings with the Building Trades Council to determine the most appropriate and legally defensible methods to ensure fairness and inclusion for the ex-offender population during the contracting and work force development efforts on the project. The goal is to insure that each subcontractor fulfills the "hire Oakland" requirements under City policy and is still consistent with hiring hall protocol.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The project will create construction jobs, stimulate support and participation from existing business to construct the project and attract new businesses to the area after the project is completed.

**Environmental:** The project is eliminating a major blighting influence on the Uptown Area.

**Social Equity:** The Project will support and exceed the local and small local business participation goals of the City of Oakland, and all other City of Oakland business and employment program requirements, by supporting local and small local businesses through training and financial assistance during the construction of the project.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The project will be in compliance with the physical access requirements of the Americans with Disabilities Act, and will provide equal opportunity and access for pedestrians within the project area.

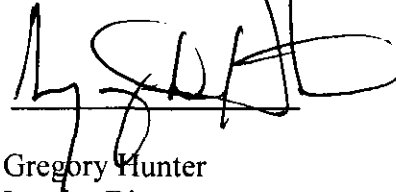
**RECOMMENDATIONS AND RATIONALE**

As this is an informational report, no recommendations are offered at this time.

**ACTION REQUESTED OF THE CITY**

Staff recommends that the Agency accept the informational report on the status of hiring local and small local businesses for the Fox Theater renovation project.

Respectfully submitted,



Gregory Hunter  
Interim Director  
Redevelopment, Economic Development,  
Housing and Community Development

Prepared by:  
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Project Manager  
CEDA Redevelopment

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:

  
Office of the City Administrator

## LBE/SLBE Participation

## Phase 1

Project No.: P131180											For Tracking Only			
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	SLBE Trucking		Local Subtier Dollar Amount	TOTAL Dollars	Ethn.	MBE	WBE	Certified DBE
PRIME	Turner CSG	Oakland	UB	195,000.00		195,000.00				195,000.00	C			
Abatement - Demo	Alarcom Bohm	Oakland	CB		1,884,000.00	1,884,000.00				1,884,000.00	C			
Facade Bracing	Gilmore Steel, Inc.	Oakland	CB		224,219.00	224,219.00				224,219.00	AA	\$224,219.00		
Historic Glazing	Gaurantee	Richmond	UB							1,500.00	NL			
Historic Doors	Polk Construction	Moraga	UB							70,000.00	C			
Stair Towers/Scaffolding	Brand Scaffold	Vallejo	UB							35,000.00	C			
Temp Fencing	Bailey Fence Co.	Hayward	UB							28,280.00	C			
Electrical Design	Morrow Meadows	Oakland	CB	200,000.00		200,000.00				200,000.00	C			
Plumbing Design	L.J. Kruse Plumbing	Berkeley	UB							76,000.00	C			
Fire Protection Design	Allied Fire Protection	Oakland	CB	136,400.00		136,400.00				136,400.00	C			
HVAC Design	Kent Lim Co.	Oakland	UB	1,000.00		1,000.00				1,000.00	AP	\$1,000.00		
Concrete	W.P. Young	San Leandro	UB							72,575.00	C			
Phase I Totals				532,400.00 18.20%	2,108,219.00 72.08%	2,640,619.00 90.28%	0.00 #DIV/0!	0.00 100%	0.00	2,924,974.00		\$225,219.00 8%		

LBE/SLBE Participation

Phase 2 Actual To Date

Project Name: Fox Oakland Theater Project (FOT, Inc.) - DDA Phase II

Project No.: P131180												For Tracking Only		
Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	Local 2nd tier Dollar Amount	Non Local Subtier Dollar Amount	Local Subtier Dollar Amount	TOTAL Dollars	Ethn.	MBE	WBE	Certified DBE
Prime	Turner Construction	Oakland	UB	5,452,000.00		5,452,000.00				5,452,000.00	C			
Concrete	William P Young Construction	San Leandro	UB							\$5,161,754.00	C			
**Reinforcing Steel Insulation	Pacific Coast Steel	San Diego	UB								NL			
**Shotcrete	Dees-Hennessey	San Carlos	UB								NL			
Misc Iron	Gilmore Steel, Inc	Oakland	CB		912,643.00	912,643.00				\$912,643.00	AA	\$912,643.00		\$912,643.00
Misc Iron	Olson & Co Steel	San Leandro	UB							\$1,568,014.00	C			
Scaffold	Brand Scaffold & Erection	Richmond	UB							\$390,876.00	C			
Bored Piles, Micropiles	Drill Tech Drilling	Antioch	UB							\$1,585,015.00	C			
Plaster Restoration	Evergreen Painting Studios	New York, NY	UB					1,095,993.00		\$895,993.00	C			
**subtier painting	Cal Pro Paint	Oakland	CB		200,000.00	200,000.00	200,000.00			\$200,000.00	AA	\$200,000.00		
Masonry Restoration	Sullivan Thompson	Oakland	CB		783,939.00	783,939.00				\$783,939.00	C			
**Painting	Jerry Thompson & Sons Paint	San Rafael	UB											
Historic Façade Woodwork	Polk Construction	Moraga	UB							674,298.00	C			
Historic Glazing	Guarantee Glass	Richmond	UB							\$1,216,736.00				
Electrical	Morrow Meadows	Oakland	CB	2,560,976.00		2,560,976.00			3,360,976.00	\$2,560,976.00	C			
**Electrical Sub	**Tucker Technology, Inc.	Oakland	CB		800,000.00	800,000.00	800,000.00			\$800,000.00				
General Requir 3	Turner CSG	Oakland	UB	250,000.00		250,000.00				\$250,000.00	C			
Duct Cleaning	Quality Air Services	Hayward	UB							\$181,829.00	C			
Fencing	Bailey Fence Co	Hayward	UB							\$1,357.00				
Dem 2	Silverado Contractors	Oakland	CB		135,250.00	135,250.00				\$135,250.00	C			
**Lead & Asbestos Abatement	Sterling Environmental	Oakland	CB								NL			
Painting	Masterpiece	Oakland	CB		211,562.00	211,562.00				\$211,562.00	AA	\$211,562.00		
Floor Leveling	Kosko Corporation	Tracy	UB							\$95,620.00	NL			
HVAC	Kent Lim & Co	Oakland	UB	22,500.00		22,500.00				22,500.00	AP	\$22,500.00		
Phase II Actual				2,760,976.00	1,143,853.00	3,904,829.00	200,000.00	1,095,993.00	3,360,976.00	22,520,552.00		\$1,571,924.08	\$0.00	
					131.6%							7%		





Phase 3 Forecasted (Allowances)

Discipline	Prime & Subs	Location	Cert. Status	LBE	SLBE	Total LBE/SLBE	Local 2nd Tier Dollar Amount	Non Local Subtier Dollar Amount	TOTAL Dollars	For Tracking Only				
										Ethn.	MSE	WBE	Certified DBE	
DEMO 2	These subs have been l'd and contacted, however contract negotiations have not been finalized		CB		60,000.00	60,000.00			60,000.00					
HVAC 1		UB	1,000,000.00		1,000,000.00			1,000,000.00	AP	\$1,000,000.00				
HVAC 2		UB	1,700,000.00		1,700,000.00			1,700,000.00	AP	\$1,700,000.00				
Historic Doors		UB						550,000.00						
Doors/Frames/Hardware		CB			720,000.00	720,000.00			720,000.00	AA	\$720,000.00		\$720,000.00	
Earthwork/Site Utilities		CB			1,069,562.00	1,069,562.00			1,069,562.00					
CMU						0.00			97,152.00					
Finished Carpentry						0.00			800,035.00					
Waterproofing						0.00			14,500.00					
Firestopping						0.00			45,000.00					
Glazing		UB				0.00			227,000.00					
Thermal Insulation						0.00			45,360.00					
Acoustic Ceilings/Panels		UB				0.00			39,506.00					
Theater Flooring		CB				403,000.00	403,000.00		403,000.00					
Misc Specialties						474,108.00	474,108.00		474,108.00	AA	\$474,108.00		\$474,108.00	
Signage						25,000.00	25,000.00		25,000.00	AA	\$25,000.00		\$25,000.00	
Lobby Annex						503,000.00	503,000.00		1,258,185.00	AA	\$1,258,185.00		\$1,258,185.00	
Back of House						255,625.00	255,625.00		639,568.00	AA	\$639,568.00		\$639,568.00	
IT's					50,000.00	50,000.00		50,000.00	AA	\$50,000.00		\$50,000.00		
Phase III Forecast				3,769,562.00	2,490,933.00	6,260,495.00	0.00	0.00	0.00	9,218,076.00		\$5,866,861.00	\$0.00	\$3,166,861.00
				40.9%	27.02%	67.92%						64%		34%
				Actual and Forecasted LBE total	Actual and Forecasted SLBE total	Actual and Forecasted LBE/SLBE total	Actual and Forecasted LBE/SLBE total	Actual and Forecasted LBE/SLBE total	Actual and Forecasted LBE/SLBE total	Actual and Forecasted LBE/SLBE total Dollars				
GRAND TOTAL				13,587,233.00	9,154,679.00	22,741,912.00	1,003,000.00	1,881,776.00	3,760,976.00	44,262,192.00		\$15,206,527.86		\$3,166,861.00
				30.7%	20.68%	51.38%						34.36%		20.83%