

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND
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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Community Jobs Oversight Commission

DATE: September 25 2012

City Administrator
Approval

Date

9/26/12

COUNCIL DISTRICT: #3

RECOMMENDATION

Staff recommends that the City Council adopt an Ordinance Establishing the Community Jobs Oversight Commission to Monitor and Enforce Compliance with the Construction and Operations Jobs Policies for the Oakland Army Base

EXECUTIVE SUMMARY

On June 19, 2012, by way of Resolution No. 83933 C.M.S., the City Council authorized a Cooperation Agreement with labor and community organizations (together, the "Parties"). The Agreement secures the support of the Parties for the development of the Oakland Army Base in return for the City's commitment to the enforcement of the Community Jobs Policies, which include local hire and apprenticeship goals, for the construction and operations phases of the Army Base project(s). Under the Agreement, the City agrees to include Construction and Operations Jobs Policies (together, the "Policies") as material terms in the Army Base Lease Disposition and Development Agreement, and to require Army Base developers and their successors to (a) comply with the Policies and (b) include the Policies as material terms in all contracts under which any on-site jobs will be performed.

In addition, the City agreed to monitor and enforce these Policies. Monitoring and enforcement activities entail (a) the provision of City staff to investigate complaints made to the City of non-compliance with the Policies and to pursue remedies to bring about compliance; (b) the establishment of an Oversight Commission consisting of representatives from the Oakland and West Oakland communities, organized labor, government, and Army Base project contractors and employers to assist with monitoring and enforcement; and (c) assistance with finding or raising funds to train community representatives serving on the Oversight Commission.

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OUTCOME

A Community Jobs Oversight Commission, composed of stakeholders appointed by the Mayor and confirmed by the City Council, will monitor hiring and employment at the Army Base and ensure compliance with the Community Jobs Policies.

BACKGROUND/LEGISLATIVE HISTORY

In 2008, the Redevelopment Agency (Agency) issued a Request for Proposals (RFP) for a master developer for the Oakland Army Base. Expectations from the development of the property included:

- Project construction would provide training and employment opportunities for targeted residents; and
- All general contractors on the project would be required to create and utilize a plan incorporating requirements of the City of Oakland Apprenticeship Policy and City of Oakland Local Employment Policy.

When the Agency entered into an Exclusive Negotiating Agreement (ENA) with AMB/CCG (later reorganized as Prologis/CCIG) (Developer) for the development of the Army Base, the expectations were reiterated in the Community Benefits Term Sheet attached to the ENA. During the course of negotiations with the Developer, the City Council determined that the City should develop a Community Benefits Agreement within which the City would negotiate and implement the suite of programs and features that address the wide array of goals and priorities the Army Base project must fulfill. An Army Base Jobs Working Group consisting of representatives from West Oakland, community coalitions such as Oakland WORKS and Revive Oakland!, the Building and Construction Trades Council of Alameda County, contractors, and the Developer came together to work on developing policies addressing job creation at the Army Base. The Working Group reached consensus on a set of recommendations, which were adopted by the City Council on February 7, 2012. The recommendations included the creation of a trained stakeholder Oversight Commission which would be charged with monitoring the good faith efforts of contractors (for construction jobs) and employers (for operations jobs) to comply with the goals of a Community Jobs Agreement, including local hiring and the City's Local Employment Program goals.

On June 19, 2012, the City Council authorized a Cooperation Agreement among the City, community organizations and labor, committing the City (1) to include the Policies associated with the Cooperation Agreement as material terms in all contracts under which any on-site jobs will be performed on the Army Base; and (2) to ensure compliance with the Policies. On July 3, 2012, by way of Ordinance No. 13131 C.M.S., the City Council authorized a Lease Disposition and Development Agreement ("LDDA") with the Developer and a related Design-Build contract with CCIG Oakland Global, LLC, a Developer member. The construction of public

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improvements that CCIG will be undertaking through the Design-Build Contract is subject to the Horizontal Construction Jobs Policy. The LDDA incorporates the Policies by reference and private construction that will be accomplished under the LDDA is subject to the Vertical Construction Jobs Policy.

Oversight Commission

The Cooperation Agreement defines the Oversight Committee as follows:

Reservation of Legislative Power. City commitments in subsection II.(K) are subject to reservation of the City Council's legislative authority. This subsection states the City's intention, but does not bind the City Council to particular commitments or limitations in the enactment of legislation to advance the purposes of this Section.

Establishment. Through City ordinance, the City will establish and convene an Oversight Commission to assist in monitoring and enforcement of this Agreement. The establishing ordinance will set forth basic rules of operation of the Oversight Commission and committee member number and qualifications. Additional rules of operation may be established by the Oversight Commission after initiation.

Composition. The Oversight Commission shall consist of eleven members. Members of the Oversight Commission shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council. The membership of the Oversight Commission shall consist of the following: (i) one member nominated by the West Oakland Community Advisory Group; (ii) two members nominated by the Revive Oakland Coalition; (iii) two members nominated by the OaklandWORKS Coalition; (iv) two members representing organized labor; (v) two members representing the City; and (vi) two members representing employers. For purposes of this Section, the "Revive Oakland Coalition" shall consist of the following organizations, or their designated successors, acting collectively: the East Bay Alliance for a Sustainable Economy, the Alliance of Californians for Community Empowerment, and Oakland Community Organizations; and the OaklandWORKS Coalition shall consist of the following organizations, or their designated successors, acting collectively: People United for a Better Life in Oakland, Black Women Organized for Political Action, the West Oakland Environmental Indicators Project, and Bay Area Black Builders. Members of the Oversight Commission shall serve without compensation.

Authority. The Oversight Commission will have the authority to:

- i. Review implementation of this Agreement, and work with Parties to attempt to resolve issues that arise in implementation;
- ii. Review compliance of Project employers with the Policies;
- iii. In cases where the Oversight Committee deems a Project employer to be

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- out of compliance, directly negotiate with that employer a remedy for the alleged violation, through a Negotiated Compliance Plan, which may include increased percentage goals on future work;
- iv. In cases where a negotiated remedy cannot be reached, act on behalf of the City to enforce the Policies;
 - v. Review any proposed changes to the Policies or to terms of the LDDA that are directly related to the Policies.

Engagement with Implementation Committees. The Oversight Committee may engage the Implementation Committees described in the Cooperation Agreement for advice and assistance in performance of investigative functions and negotiation of compliance plans.

The Implementation Committees are intended to assist Job Center staff, developers, contractors, employers, and job seekers in achieving the goals of the Community Jobs Policies. Committee members will include many of the stakeholders who participated in the Jobs Working Group process.

Implementation Committees

The Implementation Committees for the Construction and Operations phases of the Army Base project will serve as proactive bodies for the Oversight Commission with the overall intent of assisting the project to achieve its ambitious local hiring goals. The Implementation Committees are defined in the Cooperation Agreement as follows:

Construction Jobs Policies Implementation Committee

Establishment. In order to facilitate implementation of the Construction Jobs Policies, the Parties will establish and designate representatives for a Construction Jobs Policies Implementation Committee, the membership of which will include a balanced representation of community-based organizations, Building Trades Council, Contractors and the City.

Purpose and Activities. The Parties intend that, to the extent that the Oversight Commission engages the Construction Jobs Policies Implementation Committee for these purposes, the Construction Jobs Policies Implementation Committee perform the following functions, to assist the Oversight Commission in monitoring and ensuring compliance with the Construction Jobs Policies:

- i. Meet with prime contractors before work commences to hear local hire plans for each bid package to ensure compliance with the Construction Jobs Policies;
- ii. Review compliance of Contractors with the Construction Jobs Policies;

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- iii. Negotiate with any Contractor a remedy for alleged violations of the Construction Jobs Policies, through a Negotiated Compliance Plan, which may include increased percentage hiring goals on future work; and
- iv. In cases where a negotiated remedy cannot be reached, recommend to the City's Oversight Commission specific remedies.

Operations Jobs Policies Implementation Committee

Establishment. In order to facilitate implementation of the Operations Jobs Policies, the Parties will establish and designate representatives for an Operations Jobs Policies Implementation Committee, the membership of which will include a balanced representation of community-based organizations, Building Trades Council, employers, and the City.

Purpose and Activities. The Parties intend that, to the extent that the Oversight Commission engages the Operations Jobs Policies Implementation Committee for these purposes, the Operations Jobs Policies Implementation Committee perform the following functions, to assist the Oversight Commission in monitoring and ensuring compliance with the Operations Jobs Policies:

- i. Meet with Employers opening operations on the Project Site to hear their plans to ensure compliance with the Operations Jobs Policies before work commences;
- ii. Review compliance of Employers with the Operations Jobs Policies
- iii. Negotiate with any Employer a remedy for alleged violations of the Operations Jobs Policies through a Negotiated Compliance Plan, which may include increased percentage hiring goals on future work; and
- iv. In cases where a negotiated remedy cannot be reached, recommend to the City's Oversight Commission specific remedies.

ANALYSIS

From the outset, a key objective for the reuse of the Army Base has been the creation of jobs and employment opportunities for Oakland residents. To ensure that the City captures this outcome from the redevelopment of the Army Base, City staff worked with community stakeholders to develop the Community Jobs Policies that set forth hiring and employment requirements at the Army Base. The Construction Jobs Policy will apply to all construction work to be performed on the Army Base, while the Operations Jobs Policy will apply to all business operations subsequent to construction. The build-out of the Army Base will be accomplished over years through multiple developers and will generate multiple business operations. Given the extended

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timeframe for Army Base development and the number of different participants, it is critical to have one body, whose only focus is compliance with the Community Jobs Policies, to provide consistent review of employment practices at the Army Base.

The Oversight Commission will have the authority to recommend solutions and to enforce penalties when contractors are out of compliance. The Oversight Commission not only will provide the necessary scrutiny for an on-going process, but as a collaboration of representative stakeholders, it may be able to negotiate remedies for compliance more effectively. The Oversight Commission, Implementation Committees and compliance monitoring functions should be in place prior to development to establish a strong monitoring and enforcement system by the time its services are required.

It is estimated that the Oversight Commission will require a .5 FTE to support the meetings, develop and produce agenda and gather reports. The Office of Contracting and Compliance will work closely with the West Oakland Jobs Resource Center staff to provide timely and detailed analysis of job referrals, placements and hours worked to the Oversight Commission.

PUBLIC OUTREACH/INTEREST

The terms of the Cooperation Agreement, including the decision to establish the Oversight Commission are the result of extensive negotiations with representative community and labor groups. Staff met with the Army Base Jobs Working Group, which included community-based organizations, Alameda Labor Council, Oakland ACORN, East Bay Alliance for Sustainable Economy, Building and Construction Trades Council of Alameda County, Construction Employers Association, Oakland WORKS, Revive Oakland!, Oakland Workforce Investment Board, and City of Oakland Contract Compliance and Employment Services, and in a few instances the Developer. The Army Base Jobs Working Group meetings were open to anyone wishing to weigh in on developing a comprehensive set of goals, conditions and implementation processes regarding local hiring for the construction and operations phases of the Army Base project. Upwards of 50 people participated in this process.

COORDINATION

In addition to community-based and labor groups, staff is coordinating with the Office of Contracting and Compliance and the Office of the City Attorney.

COST SUMMARY/IMPLICATIONS

Costs

Staff has estimated that support for the Oversight Commission would be approximately \$100,000 annually. Funds will also be needed to expand the capacity of the Office of Contracting and

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Compliance (OCC). The OCC recommends up to \$400,000 will be needed at peak. This is a preliminary and conservatively high estimate to ensure sufficient margin between projected revenues and costs.

Potential Funding Sources

Potential sources of revenue to fund the Oversight Commission are still being analyzed. The following figures and options are very preliminary and will be fully vetted and refined for future presentations and recommendations to the City Council:

1. The West Oakland Community Fund:

This Fund is expected to generate up to \$2,000,000 based on a one-time payment of \$16,000 per developable leased and sold acre of land over the next two to seven years. The West Oakland Community Advisory Group has presented a number of recommendations for the use of these funds. The City Council has the ultimate authority over how these funds are allocated.

2. Billboard revenue:

The City's share of proposed Army Base billboard plan could be as high as \$490,000 annually beginning in 2014. With expedited approvals, a portion of these estimated funds could be available sooner.

3. Special Development Fee in lieu of the Jobs/Housing Impact Fee:

The current Jobs Housing Impact Fee could be waived and a new in lieu fee could be approved based on a commercially viable per square foot basis with those one time revenues going to support the Jobs Center. Staff has not estimate at this time for this potential source of one time funding, and recommends that the City Council consider the option.

4. Commercially Viable Community fee on tenants:

This fee based on square footage leased to master developer tenants would not be available until 2016 and beyond, and may amount to approximately \$50,000 per year by 2019.

5. Possessory interest (property taxes) targeted to support OAB Community Benefits:

The City Council could elect to divert a portion of the possessory interest generated by the Army Base project for Community Benefits. This option is also out in the future when there is new development and property values increase substantially.

6. Portion of lease revenues derived from project:

The City Council could authorize the use of a portion of net ground lease revenue generated from Army Base tenants to support the Jobs Center and other Community Benefits. Again, this is a future source of funding.

SUSTAINABLE OPPORTUNITIES

Economic: Ensuring that employers and contractors comply with the Jobs Policies will have a significant impact on the economic well-being of thousands of Oakland residents.

Environmental: An Oversight Commission does not address environmental sustainability.

Social Equity: Ensuring compliance with the Jobs Policies will guarantee access to job opportunities for people who have heretofore been disengaged.

For questions regarding this report, please contact Al Auletta, Program Manager, at (510) 238-3752.

Respectfully submitted,



Fred Blackwell
Assistant City Administrator

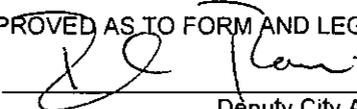
Reviewed by:
Al Auletta, Program Manager

Prepared by:
Hui Wang, Urban Economic Analyst
Office of Neighborhood Investment

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APPROVED AS TO FORM AND LEGALITY:


Deputy City Attorney

OAKLAND CITY COUNCIL
ORDINANCE NO. _____ C.M.S.

AN ORDINANCE ESTABLISHING THE COMMUNITY JOBS OVERSIGHT COMMISSION TO MONITOR AND ENFORCE COMPLIANCE WITH THE CONSTRUCTION AND OPERATIONS JOBS POLICIES FOR THE FORMER OAKLAND ARMY BASE

WHEREAS, in 2011 the City of Oakland convened a series of meetings and workshops with community stakeholders who focused specifically on the topic of local hiring with respect to the redevelopment and operation of the former Oakland Army Base; and

WHEREAS, the community stakeholders, through a consensus building process, developed a set of recommendations which provided the framework for the negotiation of a community jobs policy, which sets forth a construction jobs policy and an operations jobs policy for the Oakland Army Base project; and

WHEREAS, on July 3, 2012, the City Council approved entering into a Lease Disposition and Development Agreement (the "LDDA") with developers Prologis and California Capital and Investment Group for the redevelopment of the former Oakland Army Base (the "OAB project"); and

WHEREAS, on June 19, 2012, the City Council approved entering into a Cooperation Agreement (the "Cooperation Agreement") with labor groups and Oakland community-based organizations regarding the jobs policy for the OAB project; and

WHEREAS, the Cooperation Agreement requires, among other things, that the City establish an Oversight Commission consisting of representatives from the Oakland and West Oakland communities, organized labor, government, and employers to assist with monitoring and enforcement of the jobs policy; and

WHEREAS, Section 601 of the City Charter reserves to the City Council the authority to create boards and commissions by ordinance, and to prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby creates the Community Jobs Oversight Commission (the “Oversight Commission”).

SECTION 2. The duties and functions of the Oversight Commission are as follows:

- a. To review implementation of the Cooperation Agreement, and to work with the parties to the Cooperation Agreement to attempt to resolve issues that arise in implementation;
- b. To review compliance of employers with the Construction Jobs Policy and the Operations Jobs Policies (together, the “Jobs Policies”), including the review of background exceptions, as set forth in the Cooperation Agreement;
- c. In cases where the Oversight Commission deems an employer to be out of compliance with the Jobs Policies, to directly negotiate with that employer a remedy for the alleged violation, through a negotiated compliance plan;
- d. In cases where a negotiated remedy cannot be reached, to act on behalf of the City to enforce the Jobs Policies;
- e. To review any proposed changes to the Jobs Policies or to the terms of the LDDA that are directly related to the Jobs Policies; and
- f. To engage the Implementation Committees described in the Cooperation Agreement for advice and assistance in the performance of investigative functions and negotiation of compliance plans.

SECTION 3. The Oversight Commission shall consist of eleven members. Members of the Oversight Commission shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council. The membership of the Oversight Commission shall consist of the following: (i) one member nominated by the West Oakland Community Advisory Group; (ii) two members nominated by the Revive Oakland Coalition; (iii) two members nominated by the OaklandWORKS Coalition; (iv) two members representing organized labor; (v) two members representing the City; and (vi) two members representing employers. For purposes of this Section, the “Revive Oakland Coalition” shall consist of the following organizations, or their designated successors, acting collectively: the East Bay Alliance for a Sustainable Economy, the Alliance of Californians for Community Empowerment, and Oakland Community Organizations; and the OaklandWORKS Coalition shall consist of the following organizations, or their designated successors, acting collectively: People United for a Better Life in Oakland, Black Women Organized for Political Action, the West Oakland Environmental Indicators Project, and Bay Area Black Builders. Members of the Oversight Commission shall serve without compensation.

SECTION 4. Commencing with the effective date of this Ordinance, Oversight Commission members shall be appointed to staggered terms, said terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the term only. Except for the initial appointments made immediately following passage of this Ordinance which may be for lesser terms in order to establish staggered terms pursuant to this Section, all appointments shall be for a period of two years. There shall be no limit on the number of terms served.

In the event an appointment to fill a vacancy has not occurred by the conclusion of a member's term, that member may continue to serve as a member of the Oversight Commission during the following term in a holdover capacity for a period not to exceed one year, to allow for the appointment of a member to serve the remainder of said following term.

SECTION 5. The Oversight Commission shall, in consultation with the Mayor, establish additional rules of operation and procedures for conduct of its business by a majority vote of the members present after formation. The Oversight Commission shall make reports, findings and recommendations to either the Mayor or the City Council, as appropriate. An annual report will be presented in writing to the City Council. The Oversight Commission may submit recommendations to the Council for consideration, as appropriate.

SECTION 6. Vacancies on the Oversight Commission shall be filled for any unexpired term in the same manner as the original appointments were made; provided, however, that if the Mayor does not submit for confirmation a candidate to fill the vacancy within 90 days of the date the vacancy first occurred, the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill a vacancy within the 90-day time frame and the Council does not confirm the candidate, the 90-day period shall commence anew. For purposes of this Section, a seat filled by a holdover appointment will be considered vacant as of the expiration of the holdover's prior term of office.

SECTION 7. A member of the Oversight Commission may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council. Among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, or absence from three consecutive regular meetings except on account of illness or when absent from the City by permission of the Oversight Commission, shall constitute cause for removal.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

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

**AN ORDINANCE ESTABLISHING THE OAKLAND ARMY BASE JOBS
OVERSIGHT COMMISSION TO MONITOR AND ENFORCE
COMPLIANCE WITH THE CONSTRUCTION AND OPERATIONS JOBS
POLICIES FOR THE OAKLAND ARMY BASE**

NOTICE AND DIGEST

This Ordinance establishes the Oakland Army Base Jobs Oversight Commission to monitor and enforce compliance with the construction and operations jobs policies for the Oakland Army Base as set forth in a Cooperation Agreement between the City and various Oakland community-based organizations.