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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Jim Reese

SUBJECT: Revolving Owner Controlled Insurance
Program (OCIP) Staff Committee

DATE: December 17, 2012

City Administrator
Approval

Date

01/04/13

COUNCIL DISTRICT: City-Wide

TRANSMITTAL OF TWO RECOMMENDATIONS

The City Administrator's Office is transmitting two recommendations: (1) a recommendation that conforms to the City Charter and (2) and language that was approved by the Rules Committee.

It is important to note that at the Rules Committee on December 6, 2012, a discussion took place that surfaced concerns with the title and recommended action for this report; particularly, there was concern regarding whether the recommendation as introduced conformed to the City Charter. It is important to note that the Administration's acceptance of this policy referral will produce substantially similar results, but that the Administration cannot recommend/sign off on a recommendation that included language inconsistent with the City Charter. The action to modify a recommendation is consistent with the City Charter and, particularly, the Sunshine Ordinance 2.20.080 (Part G) which states: "Nothing in this section shall prohibit the Office of the City Attorney from conforming a document to comply with technical requirements as to form and legality."

Recommendation that Conforms with the City Charter: Staff recommends that the City Council accept this informational report about Convening a "Rolling Owner Controlled Insurance Program (OCIP) Work Group" from January 2013 through March 2013.

Recommendation that the Rules Committee approved: Staff recommends that the City Council Direct the City Administrator to Convene a Revolving Owner Controlled Insurance Program (OCIP Work Group from January 2013 through March 2013. The membership of the Working Group shall include a Representative from the following City of Oakland Offices: Risk Management, Controller, Public Works, Community and Economic Development, City Attorney, and Purchasing. A Representative of the Successor Agency, and a Representative from the Port of Oakland should also be included as members. The Working Group shall be tasked with evaluating OCIP programs from a Citywide perspective; researching best practices for OCIPs

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General Policy, (b) Feasibility Analysis Bid/Request For Proposal (RFP) and Contract Language, (c) Insurance Program Design, (d) Safety and Loss Control, (e) Administration, (f) Claims Management and Adjudication, and (g) Funding Sources. City Administrator shall provide a status report at the first CEDA committee meeting in January 2013 to include the membership roster and schedule of meetings of the OCIP Working Group.

OUTCOME

The City Administrator will convene a staff committee to review the feasibility of establishing a Revolving Owner Controlled Insurance Program (OCIP) for utilization in publicly-funded construction projects. Given the City's Holiday Furlough closure, Staff will issue a Supplemental Report by January 10, 2013 providing an update on the status of developing a OCIP program including progress made in the composition of the OCIP Staff Committee.

Staff will provide, by March 2013, an implementation plan for adopting an OCIP. The Risk Management Division will take the lead in the work and be assisted by and representatives from the following departments and divisions as needed: Controller, Public Works, Community and Economic Development and Contract Compliance. The staff committee will evaluate OCIP programs from a City-wide perspective; research best practices for OCIPs and provide recommendations for implementation of a City of Oakland OCIP program. By March 2013, the City Administrator will issue a plan of action for the implementation of a City of Oakland Rolling OCIP for Capital Improvement and other public works construction projects.

BACKGROUND/LEGISLATIVE HISTORY

Owner-controlled insurance programs (OCIPs) are an insurance procurement option that allows coverage for multiple insured's to be provided in one consolidated program. OCIPs are typically used on very large construction projects involving many contractors and subcontractors, or on a series of smaller projects that reach a minimum feasible threshold. They provide an owner with opportunities for cost savings through effective loss control and volume insurance purchasing discounts, as well as offering advantages to the contractors and subcontractors working on the project, such as improved access to insurance coverage.

The City currently has over 150 capital improvement projects underway at various stages of completion. Each project requires separate insurance policies to meet the City's construction specification requirements. Due to the limits and coverage requirements, some contractors are excluded from performing this work due to their inability to secure the insurance elements required as part of a public works construction contract. The staff committee would explore options to make projects more accessible for small, local and/or specialized vendors. Options considered include establishing a "revolving" OCIP that would extend coverage to the contractors hired to perform the work involved in the construction project.

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ANALYSIS

Construction project insurance is typically a collection of pieced together contractor and subcontractor indemnities and individual insurance policies. Each contractor and subcontractor agrees to provide insurance required by the project owner or primary contractor and provides evidence annually of their coverage. Unfortunately, the terms and conditions of each insurance policy are based on the contractor's overall portfolio needs and not the specific public works construction project. Additionally, the limits of liability under each contractor policy are shared with all other project owners for which the contractor performs work during the policy period. As a result, a degree of uncertainty exists for project owners as to whether or not appropriate insurance has been obtained by all contractors or is in effect or available at the time of a loss. Although project-specific limits are available in the market, they are usually cost-prohibitive.

OCIPs create significant savings in construction projects since contractors do not include the aggregate insurance premium costs and associated overhead when formulating their project cost estimates and contracts. Rather, the City would purchase a larger portfolio of coverage that would be extended to the contractors whose projects have been enrolled into the OCIP. Ultimately, an OCIP eliminates multiple insurers and cost duplication, coverage gaps and inadequate limits, potential uninsured contractors, coordinates loss control and loss prevention efforts and provides a competitive advantage for disadvantaged, small and/or specialty contractors.

Opportunity exists for the City to implement an OCIP for the broad portfolio of capital improvement projects and other public works construction projects that it commissions. The staff committee will determine the feasibility of implementing an OCIP and develop and present an implementation plan to City Council in March, 2013.

PUBLIC OUTREACH/INTEREST

Staff from a range of departments will be assigned to participate and provide input to staff committee as it develops an implementation plan for a City OCIP. Included in the groups providing input will be departments and divisions that have interacted with construction contractors and those participating in the construction bid process to ensure issues and concerns raised within the construction community are considered.

COORDINATION

A staff committee will be convened to implement the actions discussed in this report. The committee will involve representatives from the following departments/divisions: Risk Management, Controller, Public Works, Community and Economic Development and Contract Compliance. A proposed plan of action will be reported back to the City Council in March 2013.

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COST SUMMARY/IMPLICATIONS

FISCAL IMPACT: This report proposes establishing a staff committee to explore the feasibility of adopting an Owner Controlled Insurance Program. No fiscal impacts are anticipated in the formulation and implementation of the committee. The end product of the group will discuss the feasibility of an OCIP for City construction projects. A complete cost summary/ implications will be provided at the time of the final report in the spring of 2013.

SUSTAINABLE OPPORTUNITIES

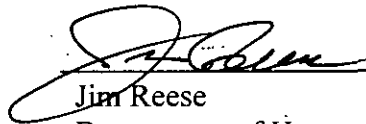
Economic: This proposed action does not provide any economic benefits or opportunities.

Environmental: This proposed action does not provide any environmental benefits.

Social Equity: This proposed action does not provide any social equity benefits.

For questions regarding this report, please contact Deborah Grant, Risk Manager, at (510) 238-7165.

Respectfully submitted,



Jim Reese
Department of Human Resources & Information
Technology
Interim Director

Prepared by:
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DHRM - Risk and Benefits Division

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