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Office of the City Administrator

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May 22, 2014

Phil Tagami
California Capital and Investment Group
300 Frank Ogawa Plaza, Suite 340
Oakland, CA 94612

*Re: Oakland Army Base – Implementation of the Construction Jobs Policy for
Public Improvements*

Dear Mr. ^{Phil} Tagami:

Thank you for your letter of April 1, 2014, requesting clarification of certain implementation issues regarding the Construction Jobs Policy for Public Improvements for the Oakland Army Base (Jobs Policy). The City is pleased that CCIG and project contractors have achieved excellent early results in local employment and contracting efforts.

This letter responds to your requests for clarification, addresses another implementation issue that has been raised by stakeholders and project participants, and expresses our concerns about the manner in which CCIG has communicated issues to the City. (Capitalized terms used in this letter have the meanings set forth in the Jobs Policy.)

(1) Required hiring processes / grant of waivers.

You requested clarification that “where a Contractor complies with the hiring process set forth in the [Jobs Policy], no waiver by the City is required.” Upon full consideration and legal review, the City agrees.

City processes in place on other publicly-funded construction projects contemplate issuance of “waivers” of compliance action for 160-hour portions of work performed by a non-resident when no resident is available for immediate referral; the function of this time-limited waiver is to require a contractor to make an additional request for Oakland workers after the expiration of the waiver period. Your letter is correct

in indicating that, pursuant to the project's Lease Disposition and Development Agreement, the Jobs Policy governs, supplanting employment-related terms of the City's Local and Small Local Business Enterprise Program.

The Jobs Policy does not contain a requirement that Contractors repeatedly contact referral sources with regard to positions that have been filled with non-residents through procedures described in the Jobs Policy. The City's standard practices on this point are therefore inapplicable to this project, and I have advised staff not to impose such a requirement or grant any type of "waiver" not specifically described in the Jobs Policy.

(2) Application of apprentice utilization requirement.

You requested clarification that "Tier 2 asbestos laborers may serve as Apprentice equivalents for the purpose of calculating Apprentice Project Work Hours under the Policy, regardless of whether such laborers are Residents." Your request reflects preliminary indications you received from City staff that Tier 2 asbestos laborers may be considered apprentices for that purpose, so long as they were Residents.

Upon full consideration and legal review, the City does not agree. A worker can be considered an Apprentice only if that worker is enrolled in a Registered Apprenticeship Program. (See Jobs Policy, Section II, definitions of "Apprentice" and "Registered Apprenticeship Program.") The Jobs Policy requires each Contractor, in each trade, to ensure that 20% of work hours are worked by apprentices, with no limitation to Oakland residents. (Jobs Policy, Sections II and III.C.3.) However, until further notice the City will not enforce this requirement in trades for which there is no apprenticeship program registered with the State's Division of Apprenticeship Standards; the City's decision not to enforce this requirement until further notice does not constitute a waiver of the requirement You should immediately notify the City's contract compliance staff and the office of the City Attorney of any other such trades for which project work will be performed.

(3) Use of the Craft Request Form.

The Project Labor Agreement for this project requires Contractors to utilize a "Craft Request Form," attached to the PLA, when requesting workers from a union hiring hall (PLA Section 14.3, Appendix B). The Craft Request Form allows Contractors to request a specific number of workers by category targeted in the Jobs Policy; it also provides an important written record of Contractor compliance with hiring process requirements of Jobs Policy Section III.B, which will be important for any Contractor that does not meet the percentage goals of Section III.C.

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The City understands that some contractors are not complying with this requirement. In accordance with its obligations under the Property Management Agreement, the City expects CCIG to keep Contractors apprised of all project requirements, and to notify the City when Contractors are not complying. Accordingly, the City directs CCIG to immediately take steps to ensure that Contractors are implementing the Craft Request Form process and to continually monitor implementation of this process. Because the City considers this a crucial issue, we request that you provide a status update on this matter to the City within the next two (2) weeks.

I have directed that the substance of this letter on the two questions you raised be communicated to the City's contract compliance staff and to members of the Community Jobs Oversight Commission.

Last, I would like to clarify roles and responsibilities as it is related to these matters. In your letter, rather than simply stating an outstanding issue exists and requesting that the City advise you of our interpretation, the letter asserts and advocates for a particular position. While we appreciate your thoughts on such matters, as the City's agent we expect you to provide notification and suggestions, leaving it to the City to communicate its position. As our agent of the infrastructure phase of the project, we expect that CCIG will take that approach in the future.

I appreciate everyone's willingness to work collaboratively to resolve any future implementation issues, as we move forward with this crucial project. Please contact me regarding any questions or concerns.

Best,



Fred Blackwell
City Administrator