

AGENDA ITEM 7

ELECTION OF CHAIR AND

VICE CHAIR

---

## MARK HENDERSON

213 Yellow Rose Circle

Oakley, CA 94561

925-679-8226/ cell 510-432-6297 marksvilla@yahoo.com

### WORK EXPERIENCE

11/2006- PRESENT: **City of Oakland; Oakland, CA**

- **Program Analyst II:** Monitor Measure Y Employment and Training Contractors to ensure contract compliance with City of Oakland contracts. Helped develop and review request for proposals. Conduct site visits to Measure Y contractors' events and activities to ensure quality and effectiveness of programs. Analyze submitted quarterly progress reports from Measure Y contractors and perform need assessments as necessary. Troubleshoot problem areas that may arise with Measure Y contractors while supporting grantees to achieve maximum success. Submit various reports on contractors' activities to City Council and other governing bodies, including recommendations for Measure Y contractors future funding. Support all Measure Y activities while relaying all relevant information to CEDA/ Workforce Development Unit. Act as a liaison for the City of Oakland with outside agencies and Community Based Organization as it relates to the Employment and Training of Oakland residents. Attend and facilitate Community meetings relating activities observed and discussed to DHS/CEDA unit. Make public presentations on topics pertaining to City interest as well as preparing written material for public distribution. Oversee and monitor implementation of new employment and training programs and provide and facilitate technical assistance as needed.

- **Interim Manager Oakland United Violence Prevention Manager:  
(7/2013-3/2014)**

Direct, manage, and implement a variety of social services and public assistance programs related to children, youth, aging and adult services; ensure quality service delivery, compliance with federal, state, and local regulations, and thorough recordkeeping for program monitoring and evaluation purposes. Develop and direct the implementation of short-term and long-term goals, objectives, policies, procedures and work standards for a division that meet the needs of the affected population; coordinate the work of a division with outside agencies, consultants and vendors. Convey program successes and needs; coordinate with and direct staff to foster outreach and awareness of available programs and services in the community. Plan the work of the division, exchange information and ensure consistency of departmental policy in the area to which assigned. Direct the selection, supervision, and evaluation of assigned staff; plan and implement staff training and development to enhance program effectiveness. Respond verbally or in writing to questions and complaints from citizens; make decisions regarding program eligibility; provide technical assistance to and collaborate with non-profit and for-profit organizations who work with client program recipients.

11/1993 – 4/1999 & 5/2003 – 11/2006: **Youth Employment Partnership, Inc.; Oakland, CA**

- **Director of Training Programs:** Responsible for all program training coordination, oversight of all Workforce Services Programs including supervision of counseling staff and administration.
- **Senior Work Experience Counselor:** Lead staff person in supervision and monitoring of clients participation and progress in YEP's various training programs; provided case management, job development, taught work readiness

workshops and provided follow-up. Adhered to Workforce Investment Act rules and regulations

- ***Director and Counselor for the following Workforce Services Programs:***
  - Team Oakland Program: an environmental education and job training program
  - Deconstruction Program: a welfare-to-work program that trained young adults in construction and demolition by dismantling warehouse buildings at the Port of Oakland, recycling materials and diverting tons of lumber waste from landfills.
  - YouthBuild: a construction skills training program that builds housing for low-income families.
  - Career Try-Out: a summer internship program for high school students.

1/2002 – 4/2003: **Southern Nevada Community College; Las Vegas, NV**

- ***Instructor:*** Taught beginning and intermediate ESL to multi-cultural students and GED preparation classes to adult students.

11/1999 – 6/2002: **S.T. Gregg & Associates: Las Vegas, NV**

- ***Case Manager/Education Coordinator:*** Coordinated the delivery of support services for adults and seniors in conjunction with Nevada State Welfare job retention program. Responsible for all eligibility documentation for program participants. Developed contacts/worksites with various employers. Coordinated education services including implementation of a GED lab and ESL class for program participants

3/1992 – 9/1993: **Oakland Private Industry Council; Oakland, CA**

- ***Eligibility Technician/Program Monitor:*** Responsible for certifying youth's eligibility for a government funded Summer Youth Employment and Training Program (SYETP) and The Mayors Summer Job Program, consisting of 1500 participants; monitored contractors to assure contract compliance and adherence to federal regulations.

## **EDUCATION**

- University of Phoenix, Las Vegas, NV; MA Organizational Management, 2001
- San Jose State University, San Jose, CA; BA Radio, Television & Film/Minor, African-American Studies, 1995
- Laney College, Oakland, CA; AA Radio, TV, 1992

# AGENDA ITEM 8

## FORMAT FOR COMPLAINT

### REPORTS

---

# AGENDA ITEM 9

CLARIFICATION OF PROCESS

FOR RECOMMENDATIONS

FROM THE COMMISSION

---

# AGENDA ITEM 10

## CITY WAIVERS

---

# CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator

Fred Blackwell  
City Administrator

(510) 238-3301  
FAX (510) 238-2223  
TDD (510) 238-2007

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. <sup>PHC</sup>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.



Phil Tagami  
May 22, 2014  
Page Two

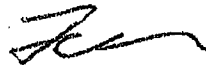
The City understands that some contractors are not complying with this requirement. In accordance with its obligations under the Property Management Agreement, the City expects CCIG to keep Contractors apprised of all project requirements, and to notify the City when Contractors are not complying. Accordingly, 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

Prior to receipt of the Notice to Proceed (NTP), the developer or contractor and Contract Compliance & Employment Services staff together will create a project-specific plan to comply with the LEP goals on a craft-by-craft basis for all work forces and for planned new hires. The project-specific plan will recognize the lawful hiring hall rules of the union hiring halls where applicable. The Anticipated Project Workforce Form may be used in the development of a project specific compliance plan.

#### **Winning Compliance**

The Developer or Contractor must meet or exceed the 50% work force and new hire requirements in order for the following program criteria to apply:

#### Exemptions

Hours of work performed by employees of a subcontractor on a LEP-covered project may not be assessed against the Contractor's LEP goals, if the subcontract will be:

1. Performed by an Owner Operator;
2. Performed in less than 40 hours;
3. The Subcontractor's core work force includes 50% Oakland employees, and no additional employees will be hired; or
4. No more than two craft persons are required to perform the work of the subcontract, the Subcontractor hires no new employee to perform the work and the Subcontractor is a Small Business within the meaning of City policies.

When the Contractor has taken the steps and an Oakland resident is not available the City shall issue an exemption.

#### Conditional Exemptions

The Developer or Contractor's project manager must submit a request for conditional exemption to the Contract Compliance & Employment Service staff. They must determine whether to grant the exemption prior to issuance of the contract. The request is reviewed based on conditions (cited by Developer or project manager) that make compliance unfeasible. Examples of such conditions include but are not limited to:

1. Permanent core workforce performs short-term (five days) work.
2. Intermittent service by one trade throughout the life of the project
3. Overall project time is under three months.
4. Owner Operator performs the work.

If circumstances arise subsequent to the issuance of a contract, the results of which the Contractor believes will prevent attaining the local-hire goals, the contractor will immediately notify the Local Employment Services staff by requesting a conditional exemption. Staff shall meet with the applicant as necessary and issue a decision within five days, including a determination as to any retroactive liability for failure to achieve the goals for work undertaken prior to the application for such a conditional exemption.

## **PART IV - A: LOCAL CONSTRUCTION EMPLOYMENT REFERRAL PROGRAM (LCERP)**

The Local Construction Employment Referral Program is a one-stop employment service for Oakland residents. The on site Job Developer evaluates the skill levels of Oakland residents seeking work as skilled or un-skilled workers on construction projects. Names, contact information and skill levels are maintained in a LCERP Data Bank. In order to satisfy the fifty percent (50%) new hire goal when employment vacancies occur on a job site, each contractor must follow the steps outlined below.

### **Referrals and Dispatching Oakland Residents**

For Open Shop - in the absence of a collective bargaining agreement the Contractor shall:

- a. Contact the City to request a referral from the Local Construction Employment Referral database; and
- b. Submit a completed "Job Request & Referral Form" by fax or e-mail;
- c. City staff will refer an Oakland resident (matching the qualifications identified by the contractor on the Job Request & Referral form) to the Contractor within three business days.

For Union Shop - contractors working under a collective bargaining agreement shall:

- a. Contact local union hall to request an Oakland resident; and
- b. If an Oakland resident is not available for dispatch, contact CC&ES to request a referral from the Local Construction Employment Referral data bank; and
- c. Submit a completed "Job Request & Referral Form" by fax or e-mail to CC&ES.
- d. The CC&ES will refer an Oakland resident (matching the qualifications defined by the contractor) to the local union hall and that resident will be dispatched within three business days in accordance with the lawful hiring hall rules of the Union.

**Unavailability Exemption (applicable to both union shop and open shop requests)**

When the Contractor has taken the steps above and an Oakland resident is not available, the City shall issue a limited exemption. Unavailability exemptions will be issued in maximum increments of 160 hours per worker request.

### **Incentives and Penalties**

#### **Incentives (credit or banking of hours)**

To encourage long-term retention and early hiring of Oakland residents as employees of contractors doing business in Oakland, the City will give a contractor credit towards the LEP goals when the contractor employs craft persons, superintendents, and foremen that are Oakland residents. Banked or credited hours may only be applied toward meeting 50% of the LEP requirement. Contractors may receive credit for hours performed by these Oakland-resident employees in the following circumstances:

1. When a contractor exceeds the LEP workforce hour goal on an existing project, those surplus hours will be banked for application on a subsequent City project.

“Registered Apprenticeship Program” shall mean a labor-management apprenticeship program that is currently registered with the State of California’s Division of Apprenticeship Standards.

“Resident” shall mean an individual domiciled in the City for at least six (6) months prior to the date that such individual is hired or assigned to perform the applicable work, with “domiciled” as defined by Section 349(b) of the California Election Code, as in effect as of the LDDA Execution Date attached, as hereto as Schedule 2.

“Union” shall mean construction trades union(s).

### III. EMPLOYMENT REQUIREMENTS.

A. **Alternative Approaches.** Each Contractor shall either follow the processes set forth in Section III.B, below, or satisfy the percentage requirements set forth in Section III.C, below.

B. **Hiring and Referral Processes.**

1. **Contractor Procedures.** Contractors shall undertake the following steps in the following order, in an effort to retain Residents, Disadvantaged Workers, and Apprentices:

- a. **Step One:** Utilize the Contractor’s discretion to assign to perform Project Construction Work any current employees who are Residents, identified Disadvantaged Workers, Apprentices;
- b. **Step Two:** If the Contractor utilizes a Union hiring hall to retain workers, utilize name call, rehire, or similar procedures in the relevant collective bargaining agreement to request particular individuals who have been identified as Residents, Disadvantaged Workers, or Apprentices;
- c. **Step Three:** If the Contractor utilizes a Union hiring hall to retain workers, request that the hiring hall refer Residents, Disadvantaged Workers, or Apprentices;
- d. **Step Four:** If the above steps have not enabled satisfaction of the percentage requirements set forth in Section III.C of this Policy related to hiring of Residents, Disadvantaged Workers, or Apprentices, request referral of needed categories of workers from the Jobs Center;
- e. **Step Five:** Fairly consider workers that have been referred by the Jobs Center within three (3) business days of request

therefor.

**2. Hiring Discretion.** Nothing in this Policy shall require that any Contractor hire any particular individual; each Contractor shall have the sole discretion to hire any individual referred by the Jobs Center or any other person or entity.

**C. Percentage Requirements.** The requirements of this Section III.C shall be satisfied if:

**1. Residents.** For each construction trade in which a Contractor performs Project Construction Work, at least fifty percent (50%) of Project Work Hours are performed by Residents.

**2. Disadvantaged Workers.** For each construction trade in which a Contractor performs Project Construction Work, at least twenty-five percent (25%) of hours worked by Apprentices are performed by Disadvantaged Workers.

**3. Apprentices.** For each construction trade in which a Contractor performs Project Construction Work, twenty percent (20%) of Project Work Hours are performed by Apprentices.

**4. Credit for Hours Worked on Other Projects.** For purposes of determining the percentage of Project Work Hours performed by Residents under Section III.C.1 or Disadvantaged Workers under Section III.C.2, any hours of construction work performed by Residents or Disadvantaged Workers on other construction projects performed by a Contractor (or, if the Contractor is a joint venture, by the entities that comprise the joint venture) during the term of the Project Construction Work (i.e., the period commencing on the Contractor's execution of a contract for the performance of Project Construction Work and expiring on the substantial completion of the work required under such contract) shall be credited as Project Work Hours performed by Residents or Disadvantaged Workers, as applicable, in the applicable construction trade (and shall not increase the total number of Project Work Hours, including those applicable to such construction trade).

**5. Bonus for Retention of New Apprentices.** For every one thousand (1,000) hours beyond an initial one thousand (1,000) hours that any one New Apprentice works for a Contractor (on the Project Construction Work or otherwise during the term of the Contractor's Project Construction Work), such Contractor shall be entitled to five hundred (500) "bonus" hours that may be applied toward satisfaction of the percentage requirements set forth in Section III.C.1.

**D. New Apprentice Sponsorship Requirements for Prime Contractors.** In each calendar year, for each twenty thousand (20,000) Project Work Hours performed by a Prime Contractor (for the avoidance of doubt, including its subcontractors of any tier), such Prime Contractor and/or any of its subcontractors of any tier shall sponsor one (1) or more New Apprentice(s) and employ such New Apprentice(s) for an aggregate total of at least one thousand

(1,000) hours of Project Construction Work and/or construction work on other projects during the term of the Prime Contractor's Project Construction Work.

**E. Funding Restrictions.** For any portion of the Project Construction Work on which, based on use of federal or state funds, a federal or state agency prohibits application of any of the requirements of this Policy, the City will, after consultation with Developer, work collaboratively with the funding agency to adapt the requirements of this Policy to the restrictions imposed by the funding agency, advancing the goals of this Policy to the greatest extent permitted by the funding agency. In such cases, Developer and the City shall meet and confer with regard to the adapted requirements agreed to by the City and the funding agency, and such requirements shall be applied to portions of the Project Construction Work in question performed after the imposition of the adapted requirements, and shall automatically become terms of this Construction Jobs Policy, to which all Contractors agree.

**F. Contact Person.** At least two (2) weeks prior to performance of Project Construction Work, or within two (2) business days after execution of a contract for performance of Project Construction Work, whichever is later, each Contractor shall provide to the City contact information for a contact person for purposes of implementation of this Policy.

**G. Employment Needs Projections.**

**1. Prime Contractor.** Within one (1) month after being awarded a prime contract for Project Construction Work, any Prime Contractor shall project employment needs by Project Work Hours for performance of the contract, and provide such projection to the Jobs Center and the City. Such projection shall indicate number of workers, apprentices, and Project Work Hours needed by trade, at different stages of performance of the contract.

**2. Subcontractors.** Each Contractor shall, at least one (1) month before commencing performance of Project Construction Work, or within two (2) business days after execution of a contract for performance of Project Construction Work, whichever is later, project employment needs for performance of the contract, and provide such projection to the Jobs Center and the City. Such projection shall indicate number of workers, apprentices, and Project Work Hours needed by trade, at different stages of performance of the contract.

**3. Compliance Plan.** Prior to commencement of construction, Prime Contractors may request participation from the City in negotiation of a proactive compliance plan with regard to requirements of this Policy. The City shall negotiate in good faith in an attempt to reach agreement on such a plan. Negotiated compliance plans may streamline and clarify responsibilities under this Policy, but may not conflict with this Policy. If such a plan is agreed to by Prime Contractor and the City, then compliance with the plan shall be compliance with this Policy.

**H. Determination of Status.** The applicable Contractor's determination of whether any individual is a Resident or New Apprentice shall be binding in determining whether the requirements of this Policy have been satisfied, including the requirements of Sections III.B and III.C, provided that such Contractor obtains reasonable documentation demonstrating that such

individual is a Resident or New Apprentice at the time that such individual is assigned or hired and such Contractor retains such documentation and makes it available to City for inspection at reasonable times. The City shall keep all documentation provided pursuant to this Section III.H confidential, subject to applicable law. The Jobs Center shall make determinations of Disadvantaged Worker status. The Jobs Center shall make such determinations promptly upon request from a Contractor, a Union, an apprenticeship program, or the City.

**I. Worker Qualifications.** Unless a criminal background check is required by any of the Background Exceptions, a Contractor shall neither request from prospective workers, nor independently research prospective workers' history of involvement with the criminal justice system. Where a criminal background check is required by any Background Exception, subject to the requirements of such Background Exception the Contractor shall: (a) include the following statement in the position description: "This position is subject to a background check for any convictions related to its responsibilities and requirements. Only criminal histories (i) related to job requirements and responsibilities or (ii) related to violent acts will be considered and will not automatically disqualify a finalist candidate."; (b) undertake the background check only after the initial interview (or, if no interview is undertaken, after a candidate has received a conditional offer of employment for the position in question); (c) consider only criminal histories (i) related to job requirements and responsibilities or (ii) related to violent acts; and (d) take into account the age of the individual at the time of the offense, the time that has passed since the offense, the nature and seriousness of the offense, and any evidence of the individual's rehabilitation. Unless a credit history is required by any of the Background Exceptions or Contractor's good faith determination that the position is of such sensitivity that individuals with particular types of credit histories are ineligible, a Contractor shall neither request, nor independently research, prospective workers' credit histories.

#### **IV. MISCELLANEOUS.**

**A. Reporting Requirements.** Contractors shall submit monthly certified payroll records to the City, with an indication as to which hours of Project Construction Work were worked by Residents, Disadvantaged Workers, Apprentices, and New Apprentices. Each Contractor shall also provide other records or information requested by the City regarding fulfillment of responsibilities under this Policy. All such records and information shall be considered public documents. Prior to such documents being released to the public, the City will redact identifying information from such documents to protect privacy of individuals.

**B. Project Labor Agreement.** As set forth in the LDDA, in order to protect the City's proprietary interest in prompt completion of Public Improvements, and to implement this Policy, the City has or will have entered into a Project Labor Agreement (PLA) with the Building and Construction Trades Council of Alameda County covering the Public Improvements, with contractors and subcontractors to perform work under terms of such PLA, and such PLA to be consistent with and facilitate compliance with this Policy.

**C. Contract/Subcontracts.** Manager under the Property Management Agreement shall include compliance with this Policy as a material term of any contract entered into by the

Manager under which Project Construction Work will be performed. If Manager complies with this Section IV.C, Manager shall not be liable for any breach of this Policy by any Contractor (or any Contractor's subcontractors at any sub-tier level). Each Contractor shall include compliance with this Policy as a material term of any subcontract under which Project Construction Work will be performed (including, as applicable, any construction management agreement), with such subcontractor having all rights and responsibilities of a Contractor. If a Contractor enters into a subcontract in violation of this Section III.C, then such Contractor shall be liable for any breach of this policy at any sub-tier level(s). If a Contractor complies with this Section III.C, such Contractor shall not be liable for any breach of this policy at any sub-tier level.

**D. Assurance Regarding Preexisting Contracts.** Each Contractor warrants and represents that as of the date that a contract incorporating this Policy became effective, it has executed no contract pertaining to the Project or the Project Site that would have violated this Policy had it been executed after that date, or would interfere with fulfillment of or conflict with terms of this Policy. If, despite this assurance, an entity that has agreed to comply with this Policy has entered into such contract, then upon request from the City it shall either amend that contract to include the provisions required by this Policy, or terminate that contract.

**E. Third Party Beneficiaries.** The City is an intended third-party beneficiary of any contract that incorporates this Policy, but only for the purposes of enforcing the terms of this Policy. There shall be no other third party beneficiaries of this Policy. The City shall not delegate any of its responsibilities to any third party, require the consent of any third party or act solely upon the direction of any third party in performing its obligations or exercising its rights under this Policy.

**F. Remedies.**

**1. Liquidated Damages for Percentage Requirements.** If a Contractor fails to satisfy at least one of the alternative approaches required by Section III.A of this Policy, then as the sole and exclusive remedy therefor, such Contractor shall pay to the City liquidated damages in an amount equal to twenty dollars (\$20) for each hour short of the percentage requirement. For example, if there are one thousand (1,000) Project Work Hours, with four hundred fifty (450) Project Work Hours performed by Residents, then the liquidated damages shall be in an amount equal to  $\$20 \times 50 = \$1,000$ . A Contractor shall not owe liquidated damages if it negotiates a compliance plan with the City pursuant to Section III.G.3, and complies with such negotiated compliance plan. Any liquidated damages collected by the City shall be used solely to support training, referral, monitoring, or technical assistance to advance the purposes of this Policy.

**2. Specific Performance.** Except with respect to Contractor's failure to satisfy at least one of the alternative approaches required by Section III.A (for which the sole and exclusive remedy is set forth in Section IV.F.1), the City may bring an action for specific performance to ensure compliance with this Policy.

**G. Out-of-State Workers.** The requirements of Sections III.B (with respect to the hiring of Residents and Disadvantaged Workers), III.C.1 and III.C.2 shall not apply to Project



Work Hours performed by residents of states other than the State of California (and such hours shall not be considered Project Work Hours for purposes of determining satisfaction of the percentage requirements of Section III.C.1 and III.C.2). Notwithstanding the above, if, for any calendar year, the percentage of Project Work Hours worked by residents of states other than the State of California exceeds thirty percent (30%) of Project Work Hours in such calendar year, then for all subsequent years of work on the Project, the first sentence of this Section IV.G. shall not apply, and the requirements of Section III.B (with respect to the hiring of Residents and Disadvantaged Workers), and the percentage requirements of Sections III.C.1 or III.C.2, shall be applicable to all Project Work Hours, including those performed by residents of states other than the State of California.

**H. Material Term.** This Policy is a material term of any contract into which it is incorporated.

**I. Severability.** If any of the provisions of this Policy are held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, that holding shall in no way affect, impair, or invalidate any of the other provisions of this Policy. If this Policy's Resident qualification is deemed invalid by final decision of a court of competent jurisdiction, then "Resident" shall mean an individual domiciled in the City prior to the date that such individual is hired or assigned to perform the applicable work, with "domiciled" as defined by Section 349(b) of the California Election Code, as in effect on the LDDA Execution Date.

**J. Applicable Law and Compliance with Law.** This Policy shall be governed by and construed in accordance with the laws of the State of California and the United States and shall be enforced only to the extent that it is consistent with those laws. Parties who have agreed to comply with this Policy agree: (i) that their understanding is that all terms of this Policy are consistent with federal, state, and local law; and (ii) that this Policy shall be reasonably interpreted so as to comply with any conflicting law.

**K. Successors and Assigns.** This Policy shall be binding upon and inure to the benefit of successors and assigns of any party to a contract incorporating this Policy. References in this Policy to any entity shall be deemed to apply to any successor of that entity.

**L. Warranties and Representation.** Each party to a contract incorporating this Policy agrees not to either affirmatively or by way of defense seek to invalidate or otherwise avoid application of the terms of this Policy in any judicial action or arbitration proceeding; has had the opportunity to be consult counsel regarding terms of this Policy, and has agreed to such terms voluntarily as a condition of entering into a contract that incorporates this Policy. This Policy shall not be strictly construed against any entity, and any rule of construction that any ambiguities be resolved against the drafting party shall not apply to this Policy.

**AGENDA ITEM 11**

**ASBESTOS WORKERS**

---

AGENDA ITEM 12  
CONTRACTOR HIRING

---

**AGENDA ITEM 13**

**PROJECT SITE VISIT**

---

## JOBSITE VISITOR'S GUIDELINES

Until final acceptance of the Project by the Owner, Turner/Top Grade/Flat Iron JV (TTGF-JV) is responsible for the health and welfare of all personnel on the jobsite. The following visitors guidelines are to be adhered to by anyone entering the construction site, including, Owner's personnel, Architect's and their consultants, vendors, photographers, business agents.

1. Sign in at the TTGF-JV office and sign a "Visitor's Release" prior to entering construction area.
2. All visitors are required to abide by the Project Safety Program.
  - A. Wearing of hard hats is required at all times.
  - B. Wearing eye protection is required at all times.
  - C. Hard-soled footwear is required. Tennis and Open Toed shoes are not allowed.
  - D. ANSI Approved Hi-Visible Vests or Clothing is required.
  - E. Shirts with T-shirt length sleeves, minimum, are required.
  - F. Shorts are not allowed.
3. Observe all signs, barricades and warnings.
4. Respect the property of the contractors. Do not disturb construction materials, stockpiles, supplies or equipment.
5. Stay clear of construction operations. Do not hinder workers.
6. Be aware of the following conditions and Prohibitions normal at a construction jobsite:
  - A. Open Excavations and Trenches. Large Gravel and Rocks
  - B. Building materials and debris inside and at the exterior of the building.
  - C. Low obstacles due to unfinished work & Temporary power cords on the floors/ground
  - D. Door openings may have a spreader bar.
  - E. Mobile Heavy Equipment, Deliver/Dump Trucks and Pick-up Truck Traffic.
  - F. Avoid wet, slippery areas and uneven ground conditions whenever possible.
  - G. Do not climb scaffolding, ladders or temporary walkways. Stay on the floor slabs unless walking with authorized construction personnel.
  - H. Do not enter restricted work areas where only specially trained personnel may enter.
    - I. Do not cross Yellow *Caution* Barricade Tape without Trade Worker permission and never access Red *Danger* Barricaded areas.
    - J. **No Visitors will be allowed to access Areas of Known Contaminated Materials**
7. All Visitors are required to be escorted by currently Badged Persons of **Access Level 1 or 2**, at all times during their planned visit.



**GENERAL RELEASE FORM**  
**Oakland Army Base**  
**2600 West 11<sup>th</sup> Street Oakland, CA**

IN CONSIDERATION OF PERMISSION GRANTED TO THE UNDERSIGNED TO ENTER AND INSPECT THE PREMISES OWNED BY:  
SITUATED ON THE PROPERTY OF *CITY OF OAKLAND*  
AT *OAKLAND ARMY BASE PROJECT SITE*  
WHEREON A STRUCTURE KNOWN AS *OAB REDEVELOPMENT*

IS BEING ERRECTED, WHICH PERMISSION IS GIVEN AS A COURTESY TO ME/US AND FOR MY/OUR BENEFIT ONLY, I/WE HEREWITH AGREE FOR MYSELF/OURSELVES AND FOR MY/OUR HEIRS, EXECUTORS AND ADMINISTRATORS THAT TO THE FULLEST EXTENT PERMITTED BY LAW, I/WE WILL AND DO HEREBY RELEASE AND FOREVER DISCHARGE

AND/OR *TURNER/TOP GRADE/FLAT-IRON JV (TTGF JV)*

AND/OR THE CONTRACTORS OR SUBCONTRACTORS WHO MAY BE PERFORMING WORK ON THE SAID PREMISES FROM LIABILITY FOR ALL MANNER OF CLAIMS, ACTIONS OR CAUSES OF ACTION WHICH I/WE NOW HAVE OR WHICH I/WE OR MY/OUR HEIRS, EXECUTORS OR ADMINISTRATORS HEREAFTER CAN, SHALL OR MAY HAVE BECAUSE OF PERSONAL INJURY OR DAMAGE TO PROPERTY WHICH I/WE MAY SUFFER WHILE ON SAID PREMISES WHETHER THE SAID INJURY OR DAMAGE MAY BE DUE TO THE ACT OR NEGLIGENCE OF *TURNER/TOP GRADE/FLAT-IRON JV,*  
*OR OF CITY OF OAKLAND, CALIFORNIA*

OR OF ANY CONTRACTOR, SUBCONTRACTOR OR OTHER SERVICE PROVIDER TO THE PREMISES LISTED ABOVE. IT IS UNDERSTOOD THAT I/WE ACCEPT FULL RESPONSIBILITY FOR THE ABOVE MENTIONED RISK.

I/WE HAVE READ THE JOBSITE VISITOR'S GUIDELINES PROVIDED BY *TTGF JV* AND DO HEREBY AGREE TO ABIDE BY THESE INSTRUCTIONS AND FOLLOW ANY ADDITIONAL REQUIREMENTS PROVIDED BY *TTGF-JV* PERSONNEL BEFORE AND DURING MY/OUR VISIT TO THE ABOVE LISTED PREMISES.

THE UNDERSIGNED KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE (SET FORTH BELOW), AS WELL AS ANY OTHER STATUTE, LAW OR RULE OF SIMILAR EFFECT, AND ACKNOWLEDGES AND AGREES THAT THIS WAIVER IS AN ESSENTIAL AND MATERIAL TERM OF GRANTING PERMISSION, AND WITHOUT SUCH A WAIVER SUCH PERMISSION WOULD NOT HAVE BEEN GRANTED.

Section Fifteen Hundred and Forty-two (1542.): A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

IN WITNESS WHEREOF, I/WE HAVE HEREUNTO SET MY/OUR HAND

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014

Name (print)	Signature	Company / Vendor
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____