

Meeting Date: 12/10/2013

Report Type: Staff/Discussion

Report ID: 2013-00909

Title: Sacramento Entertainment and Sports Center Local and Small Business Involvement Plan

Location: Downtown Plaza, District 4

Issue: In the Sacramento Entertainment and Sports Center (ESC) Term Sheet approved by the City Council, Sacramento Basketball Holdings LLC (SBH) is responsible for all phases of the planning, design, development, and construction of the ESC. On October 29, 2013, City Council approved a set of goals to guide the design, construction and operation of the ESC. One of those goals identified a desire to leverage the project to develop local businesses and spark economic growth and redevelopment in the Central Business District. As the developer of the project and to address this City goal, SBH has prepared a plan to promote the involvement of local and small businesses in the project.

Recommendation: Review and comment on SBH's proposed Local Business Enterprise and Small Business Enterprise Utilization Plan for work associated with the design and construction of the ESC project.

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Presenter: Chris Granger, President, Sacramento Kings

Clint Williams, Business Development Manager, Turner Construction

Clothilde V. Hewlett, Partner, Nossaman LLP

Department: City Manager

Division: Executive Office

Dept ID: 02001011

Attachments:

1-Description/Analysis

2-Attachment - ESC LBE SBE Utilization Plan

City Attorney Review

Approved as to Form

Matthew Ruyak

12/5/2013 11:47:59 AM

City Treasurer Review

Prior Council Financial Policy Approval or

Outside City Treasurer Scope

City Treasurer

Approvals/Acknowledgements

Department Director or Designee: John Dangberg - 12/4/2013 3:33:46 PM

James Sanchez, City Attorney

Shirley Concolino, City Clerk

Russell Fehr, City Treasurer

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Description/Analysis

Issue Detail: On October 29, 2013, Council adopted goals for the Entertainment and Sports Center (ESC) project, including a goal to leverage the economic development opportunities created by the ESC, including supporting local business. In response to this goal and because Sacramento Basketball Holdings LLC (SBH, the owners of the Sacramento Kings) will be responsible for the development and construction of the ESC if the project is approved by the city, SBH has put together a local and small business utilization plan (refer to the attachment).

This utilization plan is designed to promote local business enterprise (LBE) and small business enterprise (SBE) involvement in the development of the ESC project. In this plan, local is defined as businesses within the six-county SACOG region, which includes Sacramento, Yolo, Placer, El Dorado, Sutter and Yuba counties, plus neighboring San Joaquin County. Small businesses are generally defined as those with fewer than 100 employees and less than \$14 million in gross annual receipts.

The plan establishes the eligibility criteria for small and local businesses and sets forth both overall and subcontracting performance goals. Those goals include an overall goal for local business of 60% of the ESC project budget and a goal of 20% for small business, of which at least 75% must be local. In terms of the subcontracting objectives, SBH has established a "best value" basis rather than low-bid as a key criterion for awarding subcontracts. The "best value" approach coupled with the LBE/SBE contracting requirements ensures that larger firms either are local or partner with a LBE and/or SBE in order to be competitive.

The plan also establishes an extensive outreach and engagement program including a community advisory council that will be comprised of local business organizations such as the local chambers of commerce, among others. Early and effective outreach utilizing a variety of methods will be crucial so that businesses know about the opportunities and have time to prepare for the forthcoming bid packages. Lastly, there is a program administration portion of the plan that includes monitoring and reporting on the implementation and progress achieving the performance goals.

This plan was developed with extensive input from the local chambers of commerce, local businesses, and many of the local property-based improvement districts (PBIDs). Furthermore, the plan was developed using the extensive knowledge and experience of the ESC project team including in particular Turner Construction. SBH and its ESC project team will implement

this plan to ensure that the project achieves high levels of local business participation.

Policy Considerations: On October 29, 2013, Council adopted goals for the ESC project including a goal which focuses on leveraging economic development opportunities resulting from the project. In addition, the plan is consistent with the City's recently adopted Economic Development Strategy which has five strategic goals including Invest in Building Sacramento and Invest in Local Business.

Economic Impact: While this plan is anticipated to foster small and local business participation, there is no specific economic impact information at this time.

Environmental Considerations: This report involves the review and comment on a small and local business utilization plan to provide opportunities for businesses to be involved in the ESC project. The council is not taking any formal action on this item and thus this report does not have any potential for significant effect on the environment and is exempt under CEQA Guidelines section 15061(b)(3). The actual development of the ESC is subject to review pursuant to the California Environmental Quality Act (CEQA).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: If the ESC Project is approved by the city, SBH will be responsible for development of the ESC, including contracting and subcontracting for the project. The plan put forth by the SBH's ESC project team is to address both SBH's and the Council's goal of providing opportunities and leveraging the economic potential of the ESC project for local and small businesses.

Financial Considerations: None.

Emerging Small Business Development (ESBD): Not applicable.

SACRAMENTO ENTERTAINMENT AND SPORTS CENTER LOCAL BUSINESS ENTERPRISE / SMALL BUSINESS ENTERPRISE UTILIZATION PLAN FOR DESIGN AND CONSTRUCTION OPPORTUNITIES

The Sacramento Kings (“Kings”) are committed to promoting transformative job creation and economic growth for the Sacramento region via the development of a new, state-of-the-art entertainment and sports center (“ESC”) in downtown Sacramento.

To that end, the Kings, in consultation with the City of Sacramento (“City”), Turner Construction, and local business and civic groups have developed a plan to promote participation by Local Business Enterprises (“LBE”) and Small Business Enterprises (“SBE”) in contracting opportunities related to the ESC.

A. Eligibility

A business is eligible to participate as an LBE if it satisfies the following criteria:

- The business is a sole proprietorship, partnership, limited liability company, corporation, or any other business entity that provides services required for the development of the ESC, including but not limited to biddable design, construction, and professional services, and other services identified by the Kings (“ESC Work”).
- The business has held a legitimate business presence in the counties comprising the Sacramento metropolitan region (“Local Counties”)¹ for at least twelve (12) consecutive months prior to bidding. Evidence of legitimate business presence in the Local Counties includes either of the following:
 - (a) Having a current business license issued by any of the Local Counties;
or
 - (b) Having either of the following types of offices or workspaces operating legally within any of the Local Counties:
 - The LBE’s principal business office or workspace; or
 - The LBE’s regional, branch, or satellite office.

¹ The Sacramento metropolitan region includes Sacramento, Yolo, Placer, El Dorado, San Joaquin, Sutter, and Yuba counties (collectively, the “Local Counties”).

A business is eligible to participate as an SBE if it satisfies any of the following criteria:

- The business meets the definition of a “small business” under California’s Small Business Procurement and Contract Act (Cal. Gov. Code §14837(d))²;
- The business is certified as a small business with the California Department of General Services Procurement Division’s Office of Small Business & Disabled Veteran Business Enterprise Services³; or
- The business meets the definition of a “small business concern” as defined by the United States Small Business Administration and its principal office is located, and officers are located, in California.⁴

B. Overall Performance Goals

The Kings will seek to maximize prime contracting, subcontracting and supplier opportunities for eligible LBEs and SBEs by working towards the following goals:

- 60% of ESC Work within the ESC project budget will include participation by LBEs; and
- 20% of ESC Work within the ESC project budget will include participation by SBEs, of which at least 75% must include participation from SBEs from the Local Counties.

C. Subcontracting Performance Goals

The Kings will also establish individual LBE/SBE subcontracting goals for each prime contract awarded as follows:

- Specific subcontracting goals will be determined for each prime contract at the time the corresponding procurement or bid documents are developed.

2 For the definition refer to the California Department of General Services’ website at: www.dgs.ca.gov/pd/PROGRAMS/OSDS/SBEIeligibilityBenefits.aspx.

3 For information on the certification process refer to the California Department of General Services’ website at: www.dgs.ca.gov/pd/PROGRAMS/OSDS/GetCertified.aspx.

4 For the Small Business Administration’s definition refer to their website at: www.sba.gov/content/what-sbas-definition-small-business-concern.

- Subcontracting goals may be higher or lower than the overall performance targets, depending on a number of factors, including the applicable scope of work, contract dollar value, availability of SBEs and LBEs, and consultation with industry groups.
- Contracts shall be awarded on a best value basis.
- Achieving the LBE/SBE performance goals (or otherwise providing evidence of certain good-faith efforts to achieve the goal) will be an express contract requirement in prime contracts.
- Prior to execution of a prime contract in the areas of construction and other services subject to this policy, prime contractors will be required to develop an LBE/SBE Subcontracting Plan that describes in detail the prime contractor's proposed approach for achieving the LBE/SBE subcontracting goal on its respective contract.
- Contractors must receive approval of their LBE/SBE Subcontracting Plan and will be monitored for compliance with and performance against their approved plans.

D. Community Outreach and Engagement

Essential to the success of this plan will be a strong, extensive, and collaborative community outreach and engagement effort. To that end, a community outreach team shall:

- Establish a Community Advisory Council comprised of representatives from local- and small-business focused industry and community groups to assist in developing a LBE/SBE database; identify the availability of SBEs/LBEs in the region, by trade; and recruit LBEs/SBEs to seek ESC Work.
- Convene regular meetings attended by Advisory Council members, firms in the database, and other industry-related firms and organizations such as construction trades associations interested in the ESC project, to discuss upcoming ESC Work opportunities, corresponding bid/proposal due dates, pre-bid conferences; and other relevant announcements and information;

- Emphasize to prime contractors the overall LBE/SBE performance goals and the importance of soliciting SBEs and LBEs for subcontracting opportunities at pre-bid conferences and in the bid documents;
- Assist prime contractors in developing their respective LBE and SBE Subcontracting Plans by sharing LBE and SBE database information and other methods of facilitating introductions; and
- Utilize print, TV, radio, web, and other media outlets, as appropriate, as well as the Advisory Council, to advertise contracting opportunities to LBEs and SBEs and the general public on ESC Work opportunities.
- Receive periodic reports of progress against performance goals and work with program administrator to assist with the performance of its goals.

E. Program Administration

A program administration team shall:

- Work with the Kings and ESC project team to examine project specifications and identify ESC Work opportunities for LBE/SBE participation on ESC contracts and subcontracts;
- Develop innovative procurement and contracting practices to increase opportunities for SBEs and LBEs;
- Establish contract-specific LBE and SBE subcontracting goals;
- Review draft LBE and SBE Subcontracting Plans and make recommendations for approval of said plans;
- Monitor contractor compliance with and performance against approved LBE and SBE Subcontracting Plans; and
- Track overall progress against performance goals and submit a report on a quarterly basis to the City and the public, including actions to enhance or accelerate progress if performance falls below the stated goals.
