Vacant, 1st District
Suja Lowenthal, 2nd District
Gary DeLong, 3rd District
Patrick O'Donnell, 4th District

Patrick H. West, City Manager
Larry G. Herrera, City Clerk

Bob Foster, Mayor

Gerrie Schipske, 5th District
Dee Andrews, 6th District
Tonia Reyes Uranga, 7th District
Rae Gabelich, 8th District
Val Lerch, Vice Mayor, 9th District

Robert E. Shannon, City Attorney

CITY COUNCIL SUPPLEMENTAL AGENDA FOR THE MEETING OF MARCH 24, 2009

This Supplemental Agenda contains corrections and additions, which were posted more than 72 hours in advance of the above meeting date.

REQUEST:

The Mayor's office requests that the Presentations be revised as follows:

~~**PROCLAMATION FOR PUBLIC HEALTH WEEK**~~

PROCLAMATION FOR CESAR CHAVEZ DAY

UNFINISHED BUSINESS:

27. 09-0277 Recommendation to declare ordinance relating to a Small, Very Small and Local Small Business Enterprise Pilot Program for certain City contracts with specified City departments, and making a determination related thereto read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

Office or Department: CITY ATTORNEY

Suggested Action: Approve recommendation.

28. 09-0278 Recommendation that the first reading of an ordinance amending Chapter 21.60 of the Long Beach Municipal Code relating to relocation assistance for households displaced due to the demolition or condominium conversion be continued to the City Council meeting of April 14, 2009. (Citywide)

Office or Department: CITY ATTORNEY

Suggested Action: Approve recommendation.

ORDINANCES:

25. 09-0277 REQUEST:

The City Clerk requests that Agenda Item No. 25 be removed from the City Council meeting of March 24, 2009, since it is part of Agenda Item No. 18 from the March 17, 2009 City Council agenda and was continued to March 24, 2009 as Unfinished Business Agenda Item No. 27.

~~Recommendation to declare ordinance relating to a Small, Very Small and Local Small Business Enterprise Pilot Program for certain City contracts with specified City departments, and making a determination related thereto, read and adopted as read. (Citywide)~~

Office or Department: CITY ATTORNEY

Suggested Action: Approve recommendation.

26. 09-0278 REQUEST:

The City Clerk requests that Agenda Item No. 26 be removed from the City Council meeting of March 24, 2009, since it is part of Agenda Item No. 19 from the March 17, 2009 City Council agenda and was continued to March 24, 2009 as Unfinished Business Agenda Item No. 28.

~~Recommendation to declare ordinance amending the Long Beach Municipal Code by amending Chapter 21.60, Divisions I through III, relating to relocation assistance, read and adopted as read. (Citywide)~~

Office or Department: CITY ATTORNEY

Suggested Action: Approve recommendation.

adb

City of Long Beach Memorandum
Working Together to Serve

REQUEST TO ADD AGENDA ITEM

Date: ***March 20, 2009***

To: Larry Herrera, City Clerk

From: ***Mayor Bob Foster***

Subject: Request to Add Agenda Item to Council Agenda of ***March 24, 2009***

Pursuant to Municipal Code Section 2.03.070 [B], the City Councilmembers signing below request that the attached agenda item (due in the City Clerk Department by Friday, 12:00 Noon) be placed on the City Council agenda under New Business via the supplemental agenda.

The agenda title/recommendation for this item reads as follows:

Proclamation for Cesar Chavez Day

Council District	Authorizing Councilmember	Signed by
2	Suja Lowenthal	Tonia Lowe
3	Gary DeLong	Anne Cramer
5	Gerrie Schipske	GS

CC: Office of the Mayor

OFFICE OF THE CITY ATTORNEY
Long Beach, California

~~ORD-18~~
UB-27

ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

PRINCIPAL DEPUTIES

Dominic Holzhaus
Anne C. Lattime
Monte H. Machit
J. Charles Parkin

DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
Richard F. Anthony
Amy R. Burton
Christina L. Checel
Randall C. Fudge
Charles M. Gale
Barbara J. McTigue
Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin
Linda Trang
Theodore B. Zinger

March 17, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare ordinance relating to a small, very small and local small business enterprise pilot program for certain City contracts with specified City departments, and making a determination related thereto read the first time and laid over to the next regular meeting of the City Council for final reading.

DISCUSSION:

Pursuant to your request on January 9, 2009, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

Amy R. Burton
Deputy City Attorney

ARB:bg A08-02447
L:\Apps\CtyLaw32\WPDocs\D030\P\00369[illegible]

333 West Ocean Boulevard, Eleventh Floor, Long Beach, California 90802-4664 (562) 570-2200 Fax (562) 436-1579
Workers' Compensation Eighth Floor (562) 570-2245 Fax (562) 570-2220

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH RELATING TO A SMALL, VERY SMALL AND LOCAL SMALL BUSINESS ENTERPRISE PILOT PROGRAM FOR CERTAIN CITY CONTRACTS WITH SPECIFIED CITY DEPARTMENTS, AND MAKING A DETERMINATION RELATED THERETO

WHEREAS, the economic health of the City depends on the strength of all its businesses, including small, very small and local small businesses that are sometimes unable to compete with large-scale enterprises for City contracts; and

WHEREAS, the City desires to strengthen the City's economic base by increasing the participation of small, very small and local small businesses in City contracts; and

WHEREAS, in order to assure an effective outcome, a "pilot program" for a period of one (1) year will be undertaken for specified City departments for applicable City contracts and procurement opportunities;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. The City Council hereby adopts Exhibit "A," setting forth the City of Long Beach Small, Very Small and Local Small Business Enterprise Program (the "Program"), attached hereto and incorporated herein by this reference.

Section 2. The Program shall expire one (1) year from the date of adoption of this ordinance, unless extended.

Section 3. The City Council hereby finds and determines that Exhibit "A" is statutorily exempt from the provisions of the California Environmental Quality Act.

///

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

Section 4. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

_____

_____

_____

Noes: Councilmembers: _____

_____

Absent: Councilmembers: _____

_____

_____
City Clerk

Approved: _____ _____
(Date) Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT A

The City of Long Beach Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE) and Local Small Business Enterprise (LSBE) Pilot Program (the "Program").

1.0 Applicability

The Program shall apply to all applicable construction contracts, professional services contracts, and procurement activities undertaken by City of Long Beach Departments of Public Works and Parks, Recreation and Marine, funded with City general fund revenues and/or federal funds, except those subject to 49 CFR 26, "Disadvantaged Business Enterprises (DBE) Program" or those requiring compliance with the City's Section 3 program, and the Department of Gas and Oil, funded with gas or oil revenue. The Program shall not apply to projects or purchases using Tidelands funds or funds from the South East Resource Recovery Facility (SERRF) or projects performed by oil contractors Thums and Tidelands.

2.0 Policy

2.1 The City shall promote utilization of Small Business Enterprises (SBEs), Very Small Business Enterprises (VSBEs) and Local Small Business Enterprises (LSBEs) on construction contracts, professional services contracts, and purchase orders.

2.2 The goal of the Program is to provide the City with more competition, lower costs, and better community participation by reducing barriers to small and local business participation in the City's contracting and procurement process.

2.3 The Program shall be administered in a streamlined and cost effective manner by the City's Business Services Manager, operating under the appropriate bureau managing director, division director, and section manager.

2.4 For the Department of Parks, Recreation and Marine, VSBE participation will not be tracked separately from SBE participation, due to the large number of small contracts (less than $100,000) and the administrative costs of tracking SBEs and VSBEs separately.

3.0 Program Structure

The Program was established by an ordinance adopted on _____, 2009 by the City Council of the City of Long Beach, and became effective on _____, 2009.

4.0 Program Applicability to Non-SBE Firms, SBE Firms and VSBE Firms

4.1 Non-SBE prime contractors/consultants/vendors shall meet the combined SBE/VSBE/LSBE participation goal, or document and submit an acceptable Good Faith Effort, for their bid or proposal to be deemed responsive.

4.1.1 The Department of Public Works shall identify and may exempt from the requirements of this Program any project requiring compliance with the City's Section 3 Program, established by federal court consent decree. In cases where a determination is made to exempt a project due to the Section 3 requirements, submission of a Good Faith Effort shall not be required for a bid or proposal to be deemed responsive.

4.2 SBE prime contractors/consultants/vendors, certified through the City's online SBE/VSBE/LSBE database and verified by the City, are deemed to have met the SBE component of the combined SBE/VSBE/LSBE participation goal, but shall meet the VSBE component for the goal, or document and submit an acceptable Good Faith Effort, for their bid or proposal to be deemed responsive.

4.3 City-certified SBE prime contractors/consultants/vendors who also qualify as a Very Small Business Enterprise (VSBE) based upon the Business Services Manager's review of qualifying information are deemed to have met both components of the combined SBE/VSBE/LSBE participation goal.

4.4 The City encourages all prime contractors/consultants/vendors to utilize small business subcontractors and subconsultants, whether at a first tier or lower tier sub level, as well as vendors and suppliers. Lower tier subs and vendors/suppliers must provide services/materials directly related to the project or they will not qualify to meet the goal.

5.0 SBE, VSBE and LSBE Eligibility

5.1 SBE eligibility is determined utilizing federal U.S. Small Business Administration (SBA) size standards, based on North American Industrial Classification System (NAICS) codes. The current table of size standards can be accessed on the SBA website at **www.sba.gov/ca/la**. Examples of maximum gross annual revenue averaged over the past three years to qualify as an SBE: general contractor $31.0 million; specialty trade contractor $13.0 million; engineering services $4.5 million.

5.2 VSBE eligibility is determined utilizing maximum allowable annual gross revenues consistent with those of the State of California's Department of General Services' "micro-business" designation.

5.3 Local Small Business Enterprise (LSBE) eligibility shall be determined by the criteria established in section 2.84.030, subdivisions (1) and (2), in addition to the SBE eligibility criteria described in section 5.1, above.

6.0 Annual SBE/VSBE/LSBE/LSBE Goals, Individual Contract Goals, Division Goals

6.1 For the first year of the Program, annual City-wide SBE/VSBE/LSBE goals for participation shall be twenty percent (20%) for procurement and contracting of services, which include ten percent (10%) general SBE participation; five percent (5%) LSBE participation and five percent (5%) VSBE participation.

6.2 In order to meet the established goals, the Program Manager for each contract will consult with the Business Services Manager. Goals may be adjusted due to the number of qualified SBE/VSBE/LSBE firms available to provide the required services. If the dollar value of the work elements of a contract that can be performed by SBEs, VSBEs and/or LSBEs is high, the contract will have a higher SBE, VSBE and/or LSBE participation goal than one where only a small portion of the work could be competitively performed by SBEs, VSBEs or LSBEs.

6.3 The following is a method for determining SBE/VSBE/LSBE contract goals. Starting with a detailed cost estimate for each contract, the contract Program Manager will identify the types and amounts of work to be performed in the contract using universal codes established by the North American Industrial Classification System (NAICS). The Business Services Manager will research government and City databases and locate potential small

businesses for each work discipline. The goals are then established based on two factors: (1) the number of SBEs/VSBEs/LSBEs available to perform a work discipline; and (2) the amount of work in the contract scope that the discipline represents.

6.4 For City contracts that do not have an assigned contract-specific SBE/VSBE/LSBE goal, additional targeted outreach to SBEs/VSBEs/LSBEs will be conducted, and every effort will be made to award the work to a small business.

6.5 Certain categories of work are exempted from the Program requirements for compelling reasons after consultation with the Business Services Manager and approval by appropriate division director.

7.0 Definitions of "Subcontractor" and "Vendor/Supplier"

7.1 A "Subcontractor" is defined as an individual, firm, or entity having a direct contract with the prime contractor or with any other subcontractor to perform a portion of the subject contract. A subcontractor must have a valid State of California Contractor's License to the extent required by law.

7.2 A "Vendor/Supplier" is defined as an individual, firm, or entity providing materials or supplies directly to the subject contract. For a prime contractor to receive participation credit for utilizing an SBE/VSBE/LSBE vendor or supplier under the City's SBE/VSBE/LSBE Program, the materials/supplies must be directly applicable to the subject contract or City facility.

8.0 City's SBE/VSBE/LSBE Database: Vendor Registration and SBE Certification

8.1 All firms (large and small) wishing to do business with the City are strongly encouraged to register with the City's online database. Vendor registration is relatively simple and quick. A link to vendor registration is provided from the SBE/VSBE/LSBE Program page on the City's website.

8.2 All SBE/VSBE/LSBE firms listed on a City contract (prime contractor/consultant, subcontractors/subconsultants, vendors and suppliers) are required to register with, and obtain SBE certification from, the City's online vendor database, in order to receive credit toward the established SBE/VSBE/LSBE goal for that contract.

8.3 For the prime contractor/consultant to receive credit for a small business as part of the prime's commitment to meeting the established SBE/VSBE/LSBE goal for a contract, the SBE must be certified by the due date of the prime's SBE/VSBE/LSBE Commitment Plan (COLB Form SBE- or SBE-).

8.4 To apply for VSBE status, the small business must check the "VSBE" box on its online SBE certification application. Separate VSBE certifications will not be issued. The City will determine VSBE eligibility at the time of review of the prime contractor's/consultant's SBE/VSBE/LSBE Commitment Plan.

8.5 Prior to contract award, SBE, VSBE and LSBE status shall be verified and may be audited by the City.

9.0 Bidders' Commitment to Meeting the Established SBE/VSBE/LSBE Participation Goals

9.1 The three lowest responsive construction contract bidders shall submit a completed COLB Form SBE- : SBE/VSBE/LSBE Commitment Plan for Construction Contracts, indicating the dollar value and percentage of SBE/VSBE/LSBE contract participation, no later than 4:00 .p.m. one business day following bid opening.

9.2 If any of the three lowest responsive construction contract bidders does not meet the SBE/VSBE/LSBE participation goal, that bidder(s) shall submit its Good Faith Effort documentation no later than 4:00 p.m. on the third business day following bid opening. A bidder that does not meet the SBE/VSBE/LSBE participation goals and does not submit its GFE documentation is declared non-responsive and may forfeit its bidder's bond.

9.3 If all three lowest bidders are declared non-responsive, the fourth-lowest bidder shall submit its SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-) within 48 hours of written request by the City. The bidder's Commitment Plan will be evaluated by the Business Services Manager. If the bidder does not meet the combined SBE/VSBE/LSBE participation goal established for that contract, the bidder shall submit is Good Faith Effort documentation within 48 hours of request by the City.

9.4 Bidders that do not meet the SBE, VSBE or LSBE participation goal shall be deemed non-responsive unless they demonstrate that they have made an acceptable Good Faith Effort to meet the SBE/VSBE/LSBE participation goals.

9.5 Within three business days of being informed by the City that a firm is non-responsive because it has failed to meet the SBE/VSBE/LSBE participation goal and has not documented an acceptable Good Faith Effort (GFE), the bidder may request administrative reconsideration. The bidder shall make this request in writing to appropriate Managing Director who will serve as the SBE Reconsideration Official. The SBE Reconsideration Official will not be involved in the initial evaluation of the bidder's GFE. Contractors shall forfeit their right for reconsideration if they fail to act within three business days.

9.6 The reconsideration process provides an opportunity for the affected bidder to meet with the SBE Reconsideration Official to discuss the basis of the City's determination of non-responsiveness. The SBE Reconsideration Official will send the affected bidder a written decision on reconsideration, via certified mail, explaining the basis for finding that the bidder did or did not meet the participation goal or demonstrate an acceptable Good Faith Effort.

10.0 Proposers' Compliance with SBE/VSBE/LSBE Participation Goals

10.1 All proposers shall submit, with their proposal or Statement of Qualifications, a completed COLB Form SBE- : SBE/VSBE/LSBE Commitment Plan for Professional Services Contracts, indicating the estimated dollar value and percentage of SBE/VSBE/LSBE contract participation. This will demonstrate the proposer's ability or intent to meet the SBE/VSBE/LSBE participation goals.

10.2 If, during the evaluation process, the City finds that the proposer was unable to show ability or intent to meet the SBE/VSBE/LSBE goals assigned to the project, the proposer will be required to submit a Good Faith Effort in order to continue in the selection process.

10.3 Consultants shall indicate SBE/VSBE/LSBE participation levels prior to receiving authorization for a work task.

10.4 After negotiations have been completed and the Consultant contract is executed, achieving the SBE/VSBE/LSBE goal is a contractual commitment and can only be altered with written approval of the appropriate City division director, for unusual instances such as a change in scope of services.

11.0 Bidder and Proposer Compliance with Good Faith Effort Evaluation Criteria

A bidder/proposer whose bid or proposal fails to meet the SBE, VSBE or LSBE participation goal shall be found responsive if an acceptable Good Faith Effort is demonstrated. The following criteria shall be used in evaluating a bidder's/proposer's GFE:

11.1 Attend Pre-Bid/Pre-Proposal Meeting: The bidder/proposer submitted written evidence that he/she attended the pre-bid conference or pre-proposal meeting.

11.2 Subdivide the Work: The bidder/proposer prepared and followed a plan to subdivide the work into disciplines or work elements that could be economically performed by small businesses. It is the bidder's/proposer's responsibility to demonstrate that sufficient work was made available to SBEs, VSBEs and LSBEs to meet contract requirements.

11.3 Advertise: The bidder/proposer submitted written evidence of commercial advertising for small business subcontractors/subconsultants at least 14 calendar days prior to the bid/proposal due date. A copy of the advertisement showing the advertisement date(s), name of publication, type of work and amount of work that is being solicited, must be provided.

11.4 Use Public Databases: The bidder/proposer submitted written evidence of using the City's SBE/VSBE/LSBE database, shall business, minority business, and women-owned business associations, and chambers of commerce to help solicit subcontractors.

11.5 Provide Relevant Information to Small Businesses: The bidder/proposer submitted written evidence that he/she has provided interested small business with information about the requirements of the contract, and how to obtain plans and specifications, at least 14 calendar days prior to the bid/proposal due date.

11.6 Directly Solicit Small Businesses: The bidder/proposer submitted written evidence of directly soliciting for small business subcontractors/subconsultants. A copy of the written notices sent directly to SBEs, VSBEs and LSBEs must be provided. A direct solicitation should include the type of work, amount of work, and a brief specific description of the work being solicited.

11.7 Conduct Follow-Up: The bidder/proposer submitted written evidence of specific activities used to follow up initial solicitations in preparing the bid/proposal.

11.8 Offer Assistance: The bidder/proposer demonstrated that he/she has offered to assist small businesses in obtaining bonding, insurance or equipment.

11.9 Negotiate: The bidder/proposer submitted written evidence that he/she has negotiated in good faith with interested small businesses. Documentation must include company name, contact person, method of contact, and specific items that were negotiated (scope of work, materials, equipment, insurance, bonding, personnel, timing of project, etc.).

11.10 Document Bid and Negotiation Results: For any negotiations which were unsuccessful and/or bids/proposals received but not accepted, the bidder/proposer submitted

the unsuccessful bidder's/proposer's company name, telephone number, contact person, price bid (if applicable), and the reason for rejecting the bid or proposal. If price is the reason for rejecting the bid/proposal, list the price bid by both the SBE/VSBE/LSBE and the low bidder for that element of work.

Each of the 10 criteria will be assigned 10 points. The bidder/proposer must achieve a score of 70 out of a possible 100 points in order for the Business Services Manager to determine that the bidder/proposer has made an acceptable Good Faith Effort (GFE).

For detailed GFE submittal instructions and specific examples, log on to **www.**_____ and click on "Good Faith Effect Evaluation criteria and Submittal Instructions."

12.0 Utilization/Substitution of SBEs/VSBEs/LSBEs on Construction Contracts

12.1 During the term of the contract, the prime Contractor shall be required to utilize all Subcontractors (as defined in Section 7.0 of this document) listed on its SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-), in the amount and percentage specified on the from. Any SBE/VSBE/LSBE subcontractor substitution will require prior written approval by the appropriate City division director, and must meet all State laws and statutes.

12.2 All Subcontractors listed on COLB Form SBE- , who defined work is greater than ½ of one percent of the prime contract value, must be listed on the bidder's list of Subcontractors submitted with the bid documents. If an SBE/VSBE/LSBE Subcontractor is added after submittal of the bidder's list of Subcontractors, the bidder shall follow Subcontractor listing/substitution procedures pursuant to Public Contract Code 4107 et al.

12.3 If a prime Contractor substitutes an SBE/VSBE/LSBE vendor/supplier, the Contractor shall provide proof, to the satisfaction of the appropriate City division director, that a good faith effort was made to replace that vendor's/supplier's participation percentage with another SBE/VSBE/LSBE firm, to meet the combined SBE/VSBE/LSBE participation percentage specified on the Contractor's SBE/VSBE/LSBE Commitment Plan (COLB Form SBE-). At project close-out, if the prime Contractor fails to meet the combined SBE/VSBE/LSBE participation percentage specified on its SBE/VSBE/LSBE Commitment Plan, or fails to provide proof that it made a good faith effort to do so, the Contractor may be considered to be in material breach of contract (refer to Section 16.0).

13.0 Utilization/Substitution of SBEs/VSBEs/LSBEs on Professional Services Contracts

13.1 During the term of the contract, the prime Consultant shall be required to utilize all subconsultants listed on its SBE/VSBE/LSBE Commitment Plan (COLB form SBE-), unless the City approves a change in scope of work that would eliminate or reduce the utilization of an SBE, VSBE or LSBE subconsultant. Any SBE/VSBE/LSBE subconsultant substitutions require prior written approval by the appropriate City division director.

13.2 If a prime Consultant substitutes an SBE/VSBE/LSBE vendor/supplier, the Consultant shall provide proof, to the satisfaction of the appropriate City division director, that a good faith effort was made to replace that vendor's/supplier's participation percentage with another SBE/VSBE/LSBE firm, to meet the combined SBE/VSBE/LSBE participation percentage specified on the Consultant's SBE/VSBE/LSBE Commitment Plan.

14.0 Contract Amendments

If the City approves a change order or contract amendment, the SBE/VSBE/LSBE participation goals may, at the sole discretion of the appropriate City division director, apply to the change order or contract amendment. If the additional work can be performed by SBEs, VSBEs or LSBEs that are already part of the Contractor's/Consultant's team, the SBE/VSBE/LSBE participation goals shall apply to the entire contract, including the amendment.

15.0 Contract Monitoring

15.1 The prime Contractor/Consultant shall report the dollar value of payments to small businesses at project close-out. This data will be verified. Construction contractors shall submit a completed COLB Form SBE- (SBE/VSBE/LSBE Monthly Utilization Report for Construction Contracts), and consultants shall submit a completed COLB Form SBE- (SBE/VSBE/LSBE Monthly Utilization Report for Professional Services Contracts).

15.2 If a firm's SBE, VSBE or LSBE status changes prior to contract award, the firm will not receive SBE/VSBE/LSBE status for that City contract.

15.3 If an SBE, VSBE or LSBE firm listed on a prime Contractor's/Consultant's SBE/VSBE/LSBE Commitment Plan (POLB Form SBE-2C or SBE-2P) loses its SBE or VSBE status prior to contract award, the Contractor/Consultant shall replace the affected SBE/VSBE/LSBE dollar amount/percentage and shall submit for approval, a revised COLB Form SBE- or SBE- , in order to proceed with contract award.

15.4 If a firm's SBE, VSBE or LSBE status changes during the term of a contract, work performed on that contract after the firm loses its certification will continue to be credited toward meeting the SBE, VSBE or LSBE participation goal. However, the firm will not be able to receive SBE/VSBE/LSBE status on subsequent City projects unless the firm is subsequently re-certified as an SBE, VSBE or LSBE.

15.5 Substitution of any SBE, VSBE or LSBE subcontractor/subconsultant listed on a prime Contractor's/Consultant's SBE/VSBE/LSBE Commitment Plan must be approved by the appropriate City division director.

15.6 {For Construction Contracts only} Nothing herein shall be construed to supersede or limit the requirements for contractor substitutions provided in Section 4100 et seq. of the California Public Contract Code.

15.7 The Construction Manager, Program Manager, Business Services Manager, or their designee may conduct site visits and subcontractor/subconsultant/vendor/supplier interviews and telephone calls to verify proper and full utilization of SBEs, VSBEs and LSBEs to meet contract requirements. Prime contractors/consultants/vendors and SBEs/VSBEs/LSBEs shall fully cooperate with such monitoring.

16.0 Contract Compliance

16.1 The Prime Contractor/Consultant may be considered in material breach of contract for any one or more of the following violations:

16.1.1 Failure to submit, in a timely manner, a SBE/VSBE/LSBE Monthly Utilization Report (COLB Form SBE- or SBE-);

16.1.2 Failure to correct discrepancies found on COLB Form SBE- or SBE- ;

16.1.3 Falsifying or misrepresenting any information provided to the City, including information provided on the City's online SBE/VSBE/LSBE database;

16.1.4 Substituting a SBE/VSBE/LSBE subcontractor/subconsultant without prior written City approval; and/or

16.1.5 Failure to meet the committed SBE/VSBE/LSBE participation percentage as listed on the prime's COLB Form SBE- or SBE- .

16.2 In addition to any other remedy the City may have under the Contract or by operation of law, the City, in its sole discretion, may impose any or all of the following provisions against Contractor/Consultant determined to be in breach of contract.

16.2.1 Assess the cost of the City's audit of the books and records of the Contractor/Consultant, subcontractors/subconsultants, and all other firms claiming SBE, VSBE or LSBE status, where such audit is necessary because the Contractor has filed to timely submit a required SBE, VSBE or LSBE program report;

16.2.2 Withhold payment up to ten percent of a monthly progress payment until the Contractor/Consultant is brought into compliance.

16.3 Within three business days of written notification of the intent to enforce any of the measure described above, the Contractor/Consultant may submit in writing a request for an administrative hearing conducted by the City's SBE Reconsideration Official, as defined in Section 9.0.

17.0 Small Business Facilitation

17.1 To the extent practicable, the City will endeavor to disassemble larger construction and procurement projects into contract packages of $15 million or less. This amount is estimated to be the current bonding limit of heavy construction SBEs.

17.2 The City will conduct pre-bid meetings for individual construction projects between advertisements and bid openings. These will provide opportunities to raise questions about the SBE/VSBE/LSBE Program, plans and specifications, and will also provide an opportunity for primes, subcontractors, vendors and suppliers to meet.

17.3 The City will conduct training forums for SBEs,VSBEs and LSBEs interested in providing contracting and/or consulting services to the City.

17.4 The City will conduct periodic Good Faith Effort/small business outreach training for prime contractors/consultants/vendors interested in working with the City.

17.5 The City will cooperate with other agencies in providing SBE/VSBE/LSBE contractor and consultant training.

17.6 The City will provide referral information to SBE/VSBE/LSBE contractors and consultants on available loan, insurance, and bonding programs that could assist small businesses.

17.7 The City will coordinate outreach activities with the appropriate divisions of the City of Long Beach.

17.8 The City will participate in business and vendor fairs directed at local and small businesses.

18.0 Periodic Review

18.1 City staff will seek periodic comments from City contractors, consultants, and small businesses on the effectiveness of the SBE/VSBE/LSBE Program.

18.2 The Program is a pilot program, and shall be in effect for one year from the date of adoption of the ordinance, unless extended by action of the City Council. As soon as practicable following the conclusion of the initial year, City staff shall report to the City Council on the effectiveness and progress of the Program. The report shall include data on contracts issued in the preceding twelve months and payments to all SBE, VSBE and LSBE contractors, consultants, vendors and suppliers. To the extent possible, the cost effectiveness of the Program, including City staff costs, will also be measured.

OFFICE OF THE CITY ATTORNEY
Long Beach, California

UB-28

ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

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Charles M. Gale
Barbara J. McTigue
Barry M. Meyers
Cristyl Meyers
Howard D. Russell
Tiffani L. Shin
Linda Trang
Theodore B. Zinger

March 24, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation that the first reading of an ordinance amending Chapter 21.60 of the LBMC relating to Relocation Assistance for Households Displaced Due to Demolition or Condominium Conversion be continued to the City Council meeting of April 14, 2009. (Citywide)

DISCUSSION

On March 17, 2009, the City Council requested that the City Attorney's Office meet with representatives of the Apartment Association, Southern California Cities and Legal Aid Foundation of Los Angeles in order to resolve the final remaining issue related to the adoption of the proposed Ordinance. Due to the fact that Legal Aid representatives are unavailable for the April 24, 2009, City Council meeting, they have requested that the matter be "put over" for two weeks. However, due to scheduling concerns, it is suggested that the matter be continued to April 14, 2009.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By

MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
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