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Staff Report for a Resolution Approving a Community Workforce Agreement with the Alameda County Building and Construction Trades Council and Its Affiliated Local Unions Governing Labor Procedures for City Construction Projects Valued Above \$1,000,000

SUMMARY AND RECOMMENDATIONS

Based on direction from the City Council and the City Council Finance Committee, staff negotiated with the Alameda County Building and Construction Trades Council ("BTC") a Community Workforce Agreement. The Agreement would establish the BTC and its affiliated labor unions as the sole bargaining representative of all persons working on City construction projects valued above \$1,000,000. Further, the Agreement would set in place certain policies and goals related to the hiring of San Leandro residents to work on City construction projects and the hiring of San Leandro residents into the signatory unions' apprenticeship programs.

Staff recommends that the City Council review and consider for adoption the proposed resolution approving the Community Workforce Agreement. The Agreement has an effective date of January 1, 2016 and a term of three years.

BACKGROUND

Staff considers the following 2014-2015 City Council goals applicable to the City Council's consideration of this Agreement:

- Place San Leandro on a firm foundation for long-term fiscal sustainability;
- Advance projects and programs promoting sustainable economic development, including transforming San Leandro into a center for innovation; and
- Maintain and enhance San Leandro's infrastructure.

A Community Workforce Agreement (“CWA,” referred to from time to time and by other jurisdictions as a Project Labor Agreement or PLA) is a contract between a public agency and the respective building and construction trades groups or unions within the jurisdiction of the public agency that governs, among other things, the role of organized construction trades unions in the execution of a public agency’s projects. This issue relates to the City Council’s goals because it will impact the process for completing major expenditures within the City’s budget, the role that local businesses and employees play in that process, and ongoing efforts to enhance and maintain the City’s infrastructure.

Based on direction from the City Council in summer 2014, staff initiated discussions with the BTC to explore policy options related to the implementation of a CWA. Staff also held discussions with numerous stakeholder groups including local San Leandro businesses, the San Leandro Chamber of Commerce, and multiple business associations. Through this process, staff encountered strong opinions both for and against the City’s potential adoption of a Community Workforce Agreement. The primary arguments in favor of a CWA are that it will ensure labor peace on City projects, which assists in delivering projects on time and on budget, and that it promotes the payment and provision of quality wages and benefits for the employees who work on such projects. The primary argument in opposition is that a CWA puts non-union contractors at a disadvantage in competing for City projects.

The City Council held a Work Session on February 10, 2015 to review an assessment of policy options from staff and to gather feedback from stakeholders. At that Work Session, the City Council expressed a desire to move forward with a CWA and requested that specific policy considerations be explored in further detail at the City Council Committee level. Specifically, the City Council requested Committee consideration of three issues:

1. The appropriate minimum threshold for projects to fall under the CWA;
2. The specific language and procedures governing the ability of non-union contractors to use their existing, or “core,” workforce; and
3. How the City would account for the costs and time required to provide appropriate outreach, implementation, and monitoring of a CWA.

Analysis

Review of Community Workforce Agreements and Project Labor Agreements from other Agencies

Staff compiled and reviewed comparable agreements from other Bay Area public agencies. Staff identified two Bay Area cities -- Berkeley and Martinez -- that adopted community workforce agreements or project labor policies. Additionally, staff reviewed policies adopted or agreements approved by Alameda County, the San Leandro Unified School District, the Port of Oakland and the Hayward Unified School District.

As a starting point for discussions with the Building and Construction Trades Council of Alameda County, staff and the Trades Council used the City of Berkeley’s Community Workforce Agreement as a model. A draft CWA was presented at the February 10, 2015 Work Session and subsequently to the Finance Committee on March 17, 2015.

The basic provisions of the agreement are as follows:

Covered Work: The work covered under the draft CWA includes all on-site construction, demolition,

alteration, painting or repair of buildings, structures, landscaping, temporary fencing and other related activities for the projects that is within the craft jurisdictions of one of the signatory unions and that is part of the projects, including, pipelines, site preparation, survey work, and demolition.

The agreement does not apply to projects for which there is a prohibition, exclusion or other limitation imposed because of a grant, funding, or other agreement that creates a risk to the City of any repayment or return to source of any funds received. Per Section 2.4.5 of the Agreement, the City Council will have final authority to make amendments to the Agreement in the unlikely event that City staff and the BTC are unable to reach agreement on amendments to the CWA for a particular project's funding restrictions.

Contracts would still be subject to competitive bidding laws, the payment of prevailing wages, and the City would still be required by law and its own ordinances to select the lowest responsive and responsible bidder.

Minimum Cost Threshold: City staff recommended setting a baseline value so that the CWA would apply to City construction projects whose value meets or exceeds \$1,000,000. The Building Trades initially requested a minimum value of \$250,000. Staff's recommendation was based on programmatic necessities, including but not limited to maintaining efficiency of process and budget and project management flexibility. Based on staff research, other agencies have used the following thresholds:

- City of Berkeley: \$1,000,000 and above
- City of Martinez: \$500,000 and above
- San Leandro Unified School District: Between \$500,000 and \$3,000,000
- Port of Oakland: Varies, some as low as \$50,000
- Contra Costa County: \$1,000,000
- Solano County: \$10,000,000

Finance Committee Recommendation: At its March 17, 2015 meeting, the Finance Committee recommended a \$1,000,000 minimum threshold and the BTC indicated that, though they preferred a lower threshold, they are amenable to this determination.

Labor Peace: For all projects covered by the Agreement, the Unions would agree that there will be no strikes, sympathy strikes, work stoppages, picketing, hand billing, or slowdowns of any kind, for any reason, on the projects, at a job site of the projects or at any other facility of the City.

Union Hiring Hall and Impact on Non-Union Contractors: Contractors working on covered projects would be required, in filling craft job requirements, to utilize and be bound by the registration facilities and referral systems authorized by the signatory unions. This is commonly referred to as the union hiring hall.

The agreement does not prohibit non-union contractors from bidding on projects. However, the CWA allows non-union contractors to use no more than five of their own employees and only if those workers are San Leandro residents and an equal number of union workers are also retained by the contractor. This is known as the "Core Worker" provision. Non-union "core" workers hired under this provision would still be required to register with the union hiring hall and the non-union contractor would be required to pay into the union trust fund, covering health and pension benefits for these

workers.

In 2014, the City Council adopted a Local Inclusion Policy that gives San Leandro businesses an advantage in competing for City contracts. As discussed at the February 10, 2015 Work Session, some stakeholders raised concerns that the CWA could create challenges for non-union contractors, including some San Leandro businesses. If San Leandro businesses opt not to bid on City projects because of a CWA, they would be unable to realize the benefits of the Local Inclusion Policy, especially the bid preference granted by ordinance. At the February 10, 2015 Work Session, this issue was referred to the City Council Finance Committee for further discussion.

Finance Committee Recommendation: At its March 17, 2015 meeting, the Finance Committee indicated that it was comfortable moving forward with the “Core Worker” provision as written.

Local Hire and Apprentices: The CWA sets a goal of 30% participation by San Leandro residents in construction projects that are covered by the CWA. Contractors would make good faith efforts to reach this goal through the utilization of the Unions' hiring hall procedures. The agreement also requires contractors to hire one San Leandro resident as a New Apprentice for the first \$1 million of the bid amount. Thereafter, for every \$5 million of project monies, the contractor would be required to hire one additional New Apprentice. The intent of the clause is to increase pathways for San Leandro residents into the building trades.

Funding for Outreach, Implementation, and Oversight: Adoption of a CWA will substantially change certain procedures related to the bidding process, award, and delivery of large construction projects. Accordingly, staff believes that, should the City Council approve the CWA, an outreach process would be necessary to ensure that potential bidders are aware of the new policies and have sufficient information so that they can comply.

Additionally, staff costs for implementation will include monitoring payroll and other records to oversee and track the impact of the local hiring goal, staffing a Joint Administrative Committee, updating bid documents, and participating in the resolution of disputes if any should arise. For comparison, the City of Berkeley devotes a significant share of one full-time position in its Health, Housing, and Community Services Department for implementation and monitoring of the program. Berkeley estimates the annual cost to be \$61,000. San Leandro does not have a comparable position on staff and will need to determine the most appropriate means of providing these functions.

Subsequent City Council Action to Fund Outreach and Implementation: At its meeting on April 20, 2015, the City Council adopted Resolution No. 2015-086, appropriating \$100,000 in one-time funding for outreach and implementation of a CWA.

Effective Date and Term

Staff recommends that the CWA, if approved, have an effective date of January 1, 2016 and run for a term of three years. The effective date will allow adequate time to initiate an outreach process to ensure that potential bidders and contractors are aware of the program and can comply with it. This time will also give the City an opportunity to establish new procedures related to the preparation of bid documents, staffing of the Joint Administration Committee, and oversight, monitoring and tracking of the local hire and apprenticeship provisions.

The term of three years is recommended because, at the close of that term, staff believes that a

sufficient number of projects will have been completed to allow for a comprehensive review of the Agreement and its impact. Prior to the close of the three year term, staff anticipates returning to the City Council with a review of the program along with a recommendation of a potential extension as well as modifications that would improve the effectiveness of the CWA.

Current Agency Policies

The Local Inclusion Policy provides a bid incentive for San Leandro businesses bidding for City contracts and also sets a goal of 25% participation in City projects by San Leandro businesses.

Summary of Public Outreach Efforts

City staff met with the Alameda County Building and Construction Trades Council, the Chamber of Commerce, the Associated Building Contractors, private developers, and individual businesses to receive feedback on the proposed policy. The Chamber of Commerce also held a meeting with San Leandro contractors.

Legal Analysis

The City Attorney's Office has reviewed the proposed agreement and approved it as to form.

Previous Actions

- On February 10, 2015 the City Council held a Work Session to review options related to the adoption of a potential CWA and receive feedback from stakeholders.
- On April 20, 2015, the City Council adopted Resolution No. 2015-086, appropriating \$100,000 in one-time funding for outreach and implementation of a CWA.

Committee Review and Actions

- At meetings on March 17, 2015 and April 21, 2015, the City Council Finance Committee discussed the CWA and indicated support for bringing the item back to the City Council for adoption. Specifically, the Finance Committee recommended a minimum cost threshold of \$1,000,000 and was comfortable with the "Core Worker" provision as drafted.

Fiscal Impacts

Although the precise costs of initiating and implementing a Community Workforce Agreement are not known at this time, the City Council appropriated \$100,000 for this purpose on April 20, 2015. Staff does not anticipate a need for additional funding at this time.

ATTACHMENT

Attachment to Resolution

- Community Workforce Agreement

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