



Legislation Text

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Staff Report for a City of San Leandro City Council Resolution to Approve a Two-Year Extension of the 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; Approving a Consulting Services Agreement with Bay Area Business Roundtable for Workforce Development and Local Business Inclusion Services for an Amount Not to Exceed \$120,000; and Appropriate \$120,000 from General Fund Balance for Consulting Services for Fiscal Years 19-20 and 20-21.

SUMMARY AND RECOMMENDATIONS

Authorizes the City Manager to execute a side agreement to modify and extend for a two-year term the Community Workforce Agreement (CWA) with the Alameda County Building and Construction Trades Council (BTC), which governs labor procedures for City construction projects valued at or above \$1,000,000.

Approves a Consulting Services Agreement (CSA) with Bay Area Business Roundtable (BABRT) to provide outreach and education consulting for San Leandro residents, technical advisory services to local businesses and compliance assistance for the CWA to the City for a term of two years; and to appropriate \$120,000 from the general fund balance to cover these expenditures.

Staff recommends the City Council take the following actions:

- Authorize the City Manager to execute the side agreement to modify and extend the current term of the CWA with the BTC through December 31, 2021; and
- Appropriate \$120,000 from general fund balance for CWA consulting services; and
- Approve a CSA with BABRT in the amount of \$120,000 for workforce development and local business inclusion consulting services.

BACKGROUND

On June 15, 2015, the City Council approved adoption of the Community Workforce Agreement (CWA) negotiated with the Alameda County Building and Construction Trades Council (BTC) and its affiliated local unions to govern labor procedures for City construction projects valued at or above \$1,000,000. Further, the Agreement set in place 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. The three-year term of the CWA began on January 1, 2016. City Council approved a twelve-month extension on December 17, 2018.

The basic provisions of the CWA agreement with the BTC 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 requirement, funding source agreement, or other agreement that creates a risk to the City of any repayment or return to source of any funds received.

Construction contracts that are governed by the CWA are still subject to competitive bidding laws and prevailing wages; the City is required by law and its own ordinances to select the lowest responsive and responsible bidder.

Minimum Cost Threshold: The CWA applies to City construction projects whose value meets or exceeds \$1,000,000.

Labor Peace: For all projects covered by the CWA, BTC agrees 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 project job site or at any other facility of the City.

Union Hiring Hall and Impact on Non-Union Contractors: Contractors working on covered projects are required, when filling craft job requirements, to utilize and be bound by the registration facilities and referral systems authorized by the signatory unions, 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 are still required to register with the union hiring hall and the non-union contractor is required to pay into the union trust fund, covering health and pension benefits for these workers.

Local Hire and Apprentices: The current CWA has a goal of 10% participation by San Leandro residents as apprentices on construction projects that are covered by the CWA. Contractors are required to make good faith efforts to reach this goal through utilization of the BTC affiliated 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. A New Apprentice is defined as a San Leandro resident who is indentured in a State of California approved apprenticeship program that is a joint labor-management apprentice program for no more than twenty-four months. 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. For San Leandro journeymen-level workers, the CWA sets a 20% goal of total project hours, for a total local hire goal of 30%. After the contractor uses the Unions' hiring hall procedures and if qualified workers from San Leandro are not available, workers who reside in Alameda County can be hired to meet the apprentice goal of 10% and the journeymen goal of 20%.

Joint Administrative Committee: City staff coordinates the activities of the five-person Joint Administrative Committee. This Committee is comprised of two representatives selected by the City; two representatives of the signatory Unions and BTC; and one industry representative, mutually

selected by the City and the BTC. The Joint Administrative Committee meets monthly, but not less than once each quarter, to review the implementation of the Agreement and the progress of the CWA projects including, but not limited to, compliance with the Agreement's Referral and Local Hire Program, prevailing wage, safety, craft workforce levels and construction progress.

Since commencement of the CWA on January 1, 2016, the City Council awarded fourteen projects under the CWA and the City Council accepted the work as completed for six of those projects. The fourteen awarded projects are:

- 2016: Citywide Energy and Water Efficiency Upgrades (Climatec) - \$5.2m
- 2016: Annual Overlay / Rehabilitation 2015-16 Project - \$3.5m
- 2017: Annual Street Overlay / Rehabilitation 2016-17 Project (Phase I) - \$3.395m
- 2017: Sanitary Sewer Line Replacement/Repair 2017 Project - \$1.16m
- 2018: Water Pollution Control Plant Asphalt Replacement Project - \$1.605m
- 2018: Annual Overlay / Rehabilitation 2016-2017 Project (Phase II) - \$1.754m
- 2018: Annual Street Sealing 2017-18 Project - \$1.894m
- 2018: Annual Overlay / Rehabilitation 2017-18 Project - \$10.163m
- 2018: Police Building and South Offices Modification Project - \$6.268m
- 2019: Curb Ramp Upgrades 2018-19 Project - \$799,373*
- 2019: Farrelly Pool Demolition Project- \$134,185*
- 2019: Annual Street Sealing 2018-19 Project - \$1.720m
- 2019: Farrelly Pool Replacement Project - \$6.22m
- 2019: Sidewalk Repair Program 2019-20 - \$1.17m

*: Contracts awarded under CWA because they were part of larger projects that met CWA threshold.

Local Hire Participation Rates:

The total value of CWA projects awarded since its execution is \$44.98m. As approximately 60% of the projects awarded are for street reconstruction, rehabilitation and sealing, similar trades, such as operator/engineers, laborers, cement masons and electricians, are used for each contract. For those projects accepted by the City Council thus far, there has been no participation by San Leandro apprentices.

Analysis

Creation of Data Driven Local Hire Goals

Staff noticed failure to meet the CWA goals early in the first year of the CWA and began working with the Joint Administrative Committee union representatives as well as pre-apprenticeship and training programs to identify solutions to address the low rates of resident participation. Staff determined that acquiring data that accurately captures the current labor market is critical to creating informed local hire goals that could potentially be more realistic for contractors to achieve. Towards that end, the City is currently partnering with other local agencies who have project labor agreements to procure data that elucidates trends for San Leandro and the region for current and near future East Bay construction labor supply and demand and summarizes best practices related to Project Labor Agreements/CWAs. This data will be available in August 2020 and will be helpful in creating data-driven local hire goals and realistic provisions in the future iterations of the CWA. The City's CWA Administrator was selected to sit on the advisory board for this project and as such, is positioned to advocate for data that will be most useful for San Leandro.

Efficacy of Alameda County Second Tier Local Hire Goal

Maintaining a second tier, “back up” goal of Alameda County resident hires is problematic for several reasons. The amount of effort required of City staff to ensure compliance for the current two-tiered local hire system is unrealistic and thus a challenge.

If the City only has one local hire goal, and contractors meet that goal, then compliance efforts evaluating contractors’ Good Faith Efforts (GFE) are significantly reduced or eliminated. If the contractors request San Leandro residents from the hall and there are none available, then a simple GFE check will suffice.

The second tier local hire goal is also a challenge as it is currently difficult to identify how successful efforts by the City, the Trades Council and contractors are at meeting the San Leandro local hire goal because the goal is diluted. If the Alameda County Hire tier was eliminated, then all of the contractors’ and trades’ efforts would be focused on preparing, recruiting and hiring only San Leandro residents and demand for those workers would thus increase. The City would have better data to ascertain whether the current local hire goal is reasonable given trends observed over a period of time with a single local hire goal in place.

The current process requires a significant amount of effort for a contractor and for City staff. Instances of contractors only using Alameda County workers without requesting San Leandro residents have occurred repeatedly during the current CWA’s term. In recent cases, repeated failure by the contractor to provide adequate GFE while using Alameda County workers has caused project delays and withholding of payments per the articles of the CWA.

Impacts of Pre-Apprenticeship Training on Apprentice Local Hire Goal

In order for qualified San Leandro residents to be available for requests made by contractors to meet the local hire goal for CWA projects, they must already possess either an apprentice or a journey level certification from the hall for their trade. To successfully gain access to a trade’s apprenticeship, applicants must have completed a pre-apprenticeship program or met the prerequisites for training by the time the apprenticeship opens (which occur at various times annually and are not always synchronized with pre-apprenticeship programs). Applicants must successfully pass the requisite tests to secure an apprenticeship in highly competitive recruitments. Under the terms of the current CWA, the City does not require that the local trade unions in San Leandro or Alameda County reserve apprenticeships for San Leandro residents. As apprenticeship periods are typically at least four years, the effect of not having enough San Leandro resident apprentices year over year only compounds the lack of journey level workers who reside in San Leandro available for work on City projects.

In order for San Leandro resident apprentices to be available in hiring halls for trades such as operator/engineers, laborers, cement masons and electricians, they must successfully pass the apprenticeship exam and recruiting process. There are twelve pre-apprenticeship programs in the Bay Area that are certified by local trades’ councils, two of which are near San Leandro. The programs can last between nine and sixteen weeks, require a high school diploma or GED and driver’s license and often focus on recruiting women, people of color and/or low-income people.

The City does not currently have control or influence over how many San Leandro residents graduate from those programs. Forging partnerships with local, certified pre-apprenticeship programs, a

strategy adopted by various public agencies in Alameda County, has successfully bolstered the number of qualified resident candidates testing for limited apprenticeship slots.

Staff Level of Effort and Impacts to Project Delivery

Presently, there is a lack of sufficient staff to perform compliance and administration required for the current volume of CWA projects. The CWA covers the prime contractor and all subcontractors working on the project. Each contractor is required to submit GFE documentation proving that they complied with the local hire request process. As of December 2019, there are more than eighty contractors and subcontractors working on CWA projects. Implementation of the CWA has impacted staff's ability to deliver projects as there is increased amount of time spent on pre-bid activities and compliance as well as technical assistance efforts.

In the first year of the CWA, approximately 0.25 FTE was spent on CWA administration. With the increase in the number of CWA projects as well as the broader scope of these projects and attendant increase in types of trades used, the percentage FTE currently spent on administration, compliance and technical assistance is between 0.4 and 0.5. This does not include effort expended by project managers or other staff nor does it include consultant hours spent by BABRT, the consultant the City hired for workforce development, marketing, data and trend analysis and outreach to support both the implementation of the CWA and the City's Local Business Preference policy.

Based upon the observations outlined above, staff recommends:

- 1) Agree to a two-year extension of the current terms of the CWA with the exception of the modifications proposed below;
- 2) In the next term of the CWA, eliminate Alameda County Hire goal as second tier for the Local Hire apprenticeship and journey level workers;
- 3) BTC agrees to create and reserve not less than ten and not more than fifteen apprenticeship slots for San Leandro residents in trades that are affiliates of the BTC per calendar year;
- 4) Create a Construction Trades Workforce Development Trust Fund, to which contractors will pay \$.30/hour for every hour worked on CWA projects. The average contribution to the Fund will be approximately \$3,000 and funds will be available to organizations who prioritize placement of San Leandro residents in pre-apprenticeship programs;
- 5) Addition of a community member representative to the Joint Administrative Committee which will facilitate community input and oversight for the disbursement of funds from the Construction Trades Workforce Development Trust Fund; and
- 6) Appropriate \$120,000 from general fund balance for a two year period for consulting services, outreach and education for workforce development and local business inclusion; and
- 7) Renew for a two-year term the City's current contract with the BABRT to continue to provide outreach and education consulting for San Leandro residents, technical advisory services to local businesses and compliance assistance to the City.

Current Agency Policies

- 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.
- Maintain and enhance San Leandro's infrastructure.

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.
- On June 15, 2015, the City Council adopted Resolution No. 2015-104 and approved the Community Workforce Agreement that was negotiated with the Alameda County Building and Construction Trades Council (BTC) and its affiliated local unions to govern labor procedures for City construction projects valued above \$1,000,000.
- On May 16, 2016, staff provided an update on implementation of the CWA.
- On December 5, 2016, staff provided an update on the first year of projects constructed under the CWA.
- On December 17, 2018, the City Council adopted Resolution No. 2018-161 and approved a twelve-month extension of the original terms of the 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.
- On March 7, 2017, staff updated the City Council Finance Committee on the implementation of the CWA and subsequent impact on City projects.
- On December 5, 2018, staff updated the City Council Facilities and Transportation Committee on the ten projects awarded under the first term of the CWA.

On December 4, 2019, staff updated the City Council Facilities and Transportation Committee on the negotiations and recommendations for a potential next term of the CWA. The committee accepted the recommendations and also noted that San Leandro Unified School District should be part of the partnership with the BTC, particularly as an integral part of the pipeline to the pre-apprentice programs.

Applicable General Plan Policies

- Policy CSF-6.8: Maintenance: Ensure that sufficient funding is provided for the ongoing maintenance of City owned facilities, including streets, street lights, traffic signals, landscaping, street trees, storm drains, public buildings and other infrastructure.
- Policy ED-6.6: Job Training: Support job training initiatives which prepare local residents for local jobs.
- Policy ED-6.7: Job Opportunities for Residents: Support programs that encourage San Leandro employers to hire local residents.

- Policy ED-6.8: Labor: Engage organized labor, labor unions, and labor advocates in the economic development process.
- Policy ED-6.11: Career Ladders: Encourage career advancement programs to provide opportunities for upward mobility among the city's workforce. Support the growth of businesses that provide career advancement or "ladder" opportunities for employees.

Summary of Public Outreach Efforts

Throughout the one year extension of the original CWA terms, BABRT built strategic partnerships with San Leandro Unified School District, Chabot-Las Positas and Peralta Community College Districts, local business councils, regional agencies such as BART and AC Transit as well as the State of California's Community College Chancellor's office to bolster the City's efforts in creating a functional pipeline for entry into the construction trades through apprenticeship. BABRT also provided technical assistance to bidders for all City projects that were bid during this period and consulted regularly with representatives from BTC trades and local community-based organizations to advance the City's local hire objectives.

Legal Analysis

The City Attorney's Office reviewed the proposed side letter, and consulting services agreement and approved both as to form.

Fiscal Impacts

The total estimated cost for outreach, educating and consulting services for workforce development and local business inclusion for the two-year term of the proposed CWA is \$160,000 as detailed below:

<u>BABRT Consulting Contract</u>	<u>\$120,000</u>
Total	\$120,000

Annually, total estimated cost for staff time for administration, compliance and project management, CWA labor compliance software and the proposed contractor contribution for the Construction Trades Workforce Development Trust Fund for an average of six projects per fiscal year is \$150,000. These costs are charged to the individual CWA projects as part of each project budget.

CWA Administration & Compliance	\$90,000
Project Management	\$35,000
Labor Compliance Software	\$25,000
<u>Construction Trades Workforce Dev. Fund</u>	<u>\$20,000</u>
Total	\$170,000

Budget Authority

Appropriation requested by this action from general fund balance for consulting services, outreach and education for workforce development and local business inclusion is as follows:

<u>Account No.</u>	<u>Source</u>	<u>Fiscal Year</u>	<u>Amount</u>
010-42-021-5120	General Fund-Community Investment	FY19/20	\$60,000
010-42-021-5120	General Fund-Community Investment	FY20/21	<u>\$60,000</u>
Total Appropriation			\$120,000

ATTACHMENTS

Attachments to Related Legislative Files

- CSA - Bay Area Business Roundtable Workforce Development and Local Business Inclusion Services

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