



Department: Attorney
Cost Center: 1501
For Agenda of: 10/1/2024
Placement: Consent
Estimated Time: N/A

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SUBJECT: AMENDMENT TO COMMUNITY WORKFORCE AGREEMENT FOR PRADO ROAD INTERCHANGE AND PUBLIC SAFETY CENTER PROJECTS

RECOMMENDATION

Authorize the Mayor to sign the proposed amendment to the Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council for the Prado Road Interchange and Public Safety Center projects.

POLICY CONTEXT

In furtherance of the Economic Recovery, Resiliency, and Fiscal Sustainability Major City Goal adopted for the 2021-23 Financial Plan, in September 2021 City Council studied ways to support the local economy¹ and then authorized staff in the Spring of 2022² to negotiate a Community Workforce Agreement (“CWA”) with the Tri-Counties Building and Construction Trades Council (“Tri-Counties”). After a July 2022 milestone in the negotiating process was missed³, Council narrowed the scope of the CWA being drafted to only cover the Prado Road Interchange⁴ and Public Safety Center⁵ projects but directed that the CWA continue to include a 50% local worker participation goal and exclude prevailing wage services provided through professional services agreements. A tentative CWA that met these goals was brought to Council and approved for execution at its [January 17, 2023, meeting](#).

¹ Study Session of 9/21/2021, item 8a, to discuss potential strategies to support local contractors, vendors and labor on public projects:

<https://opengov.slocity.org/WebLink/DocView.aspx?id=147490&dbid=0&repo=CityClerk>

² City Council Meeting of 4/19/2022, item 6d, to review the staff recommendations following analysis of the results of the stakeholder outreach and historical Capital Improvement Project data:

<https://opengov.slocity.org/WebLink/DocView.aspx?id=158584&dbid=0&repo=CityClerk>

³ City Council Meeting of 7/19/2022, item 7c, to review progress of negotiations towards a CWA:

<https://opengov.slocity.org/WebLink/DocView.aspx?id=162291&dbid=0&repo=CityClerk>

⁴ Project currently estimated to go out to bid in December 2027. A separate City project to widen a section of and replace an old bridge in Prado Road are not covered by the CWA. The “Prado Road Interchange” project covered by the CWA is the construction phase of capital improvement project #2091613.

⁵ Project currently on hold pending new planning efforts to occur beyond 2027. The “Public Safety Center” project covered by the CWA is capital improvement project # 2000522-03. Separate City projects to maintain the existing police station building or make tenant improvements to the 1106 Walnut property are not covered by the CWA.

DISCUSSION

Background

After extended cooperative negotiations, in January 2023, City staff brought to City Council a tentative CWA that fulfilled the objectives directed by Council, including supporting local labor employment on public projects. The CWA with Tri-Counties was considered on the consent agenda of 1/17/2023⁶, and was unanimously approved by Council for signature by the Mayor.

At the request of Tri-Counties, the CWA had not been signed in advance of Council review so all signatures (including those of each representative of a participating Craft Union and Trade Council (“Unions”)) had to be collected after the fact. The City agreed to post-approval execution based upon the representation of Tri-Counties negotiators that the Unions were all supportive of the CWA and had authorized Tri-Counties to represent their agreement to the City, and based on the City’s understanding that execution of the document would be a relatively quick, clerical process. Shortly after Council approval, City Clerk staff posted the document for electronic signature via DocuSign, but even after substantial follow-up by City staff, the necessary signatures had not been received. In April 2023, the approved CWA document was signed by Tri-Counties and then routed to the Mayor. However, at that point the City had received no signatures from the Unions.

City staff offered to facilitate signatures by the Unions either electronically or on paper but these offers were declined. Following continual follow up by City staff, by October 2023 the City had been advised that only about half the Union signatures had been obtained by Tri-Counties (none had yet made it to the City), some Unions had stated they would not sign without changes to the Council approved CWA language⁷, and one Union had conveyed its decision not to sign⁸.

In November 2023, Tri-Counties emailed to the City the Union signatures it had collected to date. There were still a few missing and, after another month of follow up by City staff, Tri-Counties emailed one additional signature page along with a side letter requesting removal of sections 13.1.1 and 13.1.2 of the CWA. Tri-Counties representatives conveyed that, with the sections referenced in the side-letter removed, the remaining Union signatures could be collected. Since it was unclear to City staff whether the Unions that had signed onto the CWA previously were aware of the requested changes (in both the

⁶ City Council meeting of 1/17/23, item 6f, to approve a CWA for two public projects:

<https://opengov.slocity.org/WebLink/DocView.aspx?id=171979&dbid=0&repo=CityClerk>

⁷ Sheet Metal Workers included a proposed side letter when they sent their signature page and four Unions did not sign until August 2024 after the amendment being presented to Council in this agenda item was drafted.

⁸ As conveyed to the City in an email March 28, 2023: “The Operating Engineers will be taking the stance of “Stand Down”. They, as you all [know], are extremely passionate about the Survey, Soils and Compaction portion of work. We presented what WE all here collectively thought would be a good work around. Needless to say, with multiple sit downs, they are not budging from their position. However, they will be approving the directive and providing a letter that [although] they will not be signing on to the CWA, they will “Stand Down” and not cause any disruptions or force unsanctioned pickets. In a year's time, they are hoping for a review of the aforementioned work with hopes of being able to secure it the next go around.” The “letter” referenced was requested several times by City staff but never provided.

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Sheet Metal Workers side letter and the side letter delivered December 5, 2023) and whether all Unions were in agreement to support the requests, City staff replied and requested confirmation. No response was received from Tri-Counties until May 2024.

After receiving the response from Tri-Counties, City staff continued following up with them to clarify inconsistent language of the amendment requests, confirming details and collecting documents necessary to bring the amendment to City Council for consideration. As presented in this agenda item, the amendment includes the changes listed below (reflected in detail in Attachment A: Amendment in redline; Attachment B: Clean amendment for signature). Staff and outside counsel, Mike Vlaming, reviewed the changes and have concluded the changes requested are either clerical in nature or are generally consistent with previous Council direction or standard construction trade practices.

- Section 13.1.1 of the CWA is removed. This section of the CWA stated that, “All Apprentices performing work on the project must be registered apprentices training under apprenticeship standards that include the specific work processes that will be performed by the contractor’s journeymen and shall only be assigned work that is included in the apprenticeship standards under which they are indentured.” This was problematic for a handful of the Unions, deemed an internal Tri-Counties issue by City staff, and therefore the amendment being recommended removes the section. There was no section 13.1.2 of the original CWA so that part of the request from Tri-Counties was immaterial.
- Section 2.3.3 of the CWA is modified to align with the request of the Sheet Metal Workers. The ability to perform certain processes including, but not limited to, fabrication and assembly off site by the Sheet Metal Workers is standard industry practice and desirable from an efficiency and quality standpoint. The amendment modifies the CWA language to allow for this work to remain within the scope of the CWA while being completed off site.
- The effective date of the CWA is deemed to be January 17, 2023. As originally drafted, the CWA left its effective date reliant on complete collection of signatures. The amendment establishes a fixed, agreed upon date. Establishing the effective date does not impact any projects procured since January 17, 2023, as the CWA was and remains limited to the Prado Road Interchange and Public Safety Center projects (see footnotes 4 and 5 of this report for more detail on those projects) and neither project has yet gone out for bid on construction.
- Section 15.2 is modified to clarify the role of the Chair and Co-Chair of the Joint Administrative Committee (“JAC”), and the participation of the City in the JAC via the members it appoints. As originally drafted, the CWA did not identify who the Chair and Co-Chair were and implied the City would need to be invited to meetings of the JAC (instead of the accurate reflection that several of the JAC member positions are City appointees).

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The version of the amendment being presented has been fully executed by Tri-Counties, approved by vote of the Unions, and all signature pages to the original CWA have been collected (Attachment C: Complete set of Union signature pages). Should Council approve the amendment, only the Mayor's signature would need to be collected to make the complete document effective.

Previous Council or Advisory Body Action

Council has taken previous action related to the original CWA (see list of meetings below) but has not reviewed the amendment now being requested.

- [Study Session of 9/21/2021, item 8a](#): to discuss potential strategies to support local contractors, vendors and labor on public projects.
- [City Council Meeting of 4/19/2022, item 6d](#): to review the staff recommendations following analysis of the results of the stakeholder outreach and historical Capital Improvement Project data.
- [City Council Meeting of 7/19/2022, item 7c](#): to review progress of negotiations with Tri-Counties towards a CWA.
- [City Council Meeting of 1/17/2023, item 6f](#): to review and approved the tentative CWA.

Public Engagement

The previous action related to the original CWA were all public agenda items and the amendment now being proposed has been included in the publicly posted agenda for the City Council meeting.

CONCURRENCE

The Administration Department and Community Services Group concur with the recommendations of this report.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to the recommended action in this report, because the action does not constitute a "Project" under CEQA Guidelines Section 15378.

FISCAL IMPACT

Budgeted: Yes
Funding Identified: Yes

Budget Year: 2024-25

Fiscal Analysis:

Work to coordinate with Tri-Counties; draft and review the amendment being proposed; and bring this agenda item to Council was completed, for the most part, by City staff in the ordinary course of their duties. Additional contract legal support was provided by attorney Mike Vlaming and the remaining balance on his contract (first executed in November 2021 with a not-to-exceed amount of \$20,000) is \$9,803 after payment of the invoice for his work in August 2024. Staff intend to retain Mr. Vlaming as a resource for implementation of this CWA and potentially for future CWA related support.

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$ 9,803	\$0	\$9,803	\$TBD
State				
Federal				
Fees				
Other:				
Total	\$9,803	\$0	\$9,803	\$TBD

ALTERNATIVES

1. **Direct staff to negotiate different terms to be included in the amendment.** Council may provide direction to City staff to negotiate additional or different terms to the CWA however, staff do not believe this is necessary since the original CWA was approved by Council and the few changes being proposed in the amendment do not substantively detract from the original agreement’s core objectives.
2. **Council could reject the amendment.** Staff does not recommend this alternative, as several of the Unions have made it clear that refusal to agree to the amendments would preclude them from participation in the CWA, which would impact the effectiveness of the CWA.

ATTACHMENTS

- A - Redline draft of the Amendment highlighting the changes to language in the CWA
- B - Clean, proposed Amendment (including its Exhibits A, B & C) executed by Tri-Counties
- C - Complete Union signatures to the original CWA