



Council Agenda Correspondence

DATE: April 19, 2022

TO: Mayor and Council

FROM: **Matt Horn, Director of Public Works**

VIA: Derek Johnson, City Manager

SUBJECT: ITEM 6d – COMMUNITY WORKFORCE AGREEMENT: PHASE 2 DATA ANALYSIS, OUTREACH, AND DRAFT POLICY DEVELOPMENT

Staff received the following questions, with staff's response shown in italics:

- 1) Question: Is there any time sensitivity to completing CWA negotiations for any City projects.**

Answer: Yes, very much so. For instance, if Council adopted staff's recommendation and requires CWA for the three projects as noted the negotiations for the Cultural Arts District Parking Structure would have to be concluded and approved by Council no later than August 2022 so that contract specification language for compliance with the CWA can be created for inclusion in the project specifications. It is important to note that each month this project is delayed, the cost of that delay in construction cost are presently estimated at \$200,000 per month. This key point is identified in the presentation to Council tonight as a key next step. If more time is needed to develop the CWA, the Cultural Arts District Parking Structure may need to be removed from CWA consideration or risk delaying the delivery of that project. Any increased delivery cost for the parking structure will likely need to be borne by the parking fund and likely need to be mitigated by increasing parking rates.

- 2) Question: Could there be a future process to permanently incorporate CWA language into the City's Capital Improvement Plan considerations for appropriate projects in the future? Could appropriate projects be determined by size, duration of construction or type of construction?**

Answer: Council could modify the recommended action, or provide direction to staff with a motion tonight, in a variety of ways so that it incorporates the CWA evaluation in the Capital Programs Budgeting process by requiring CWA evaluation for:

- 1. Projects over a certain dollar amount and/or;*
- 2. Projects that historically do not have good local worker participation and/or;*
- 3. Council could also direct staff to report out local labor hours as a Key Performance Indicator for capital project delivery.*

3) Question: Can staff collect data on local worker numbers on City Capital Projects and report back to Council on a regular basis?

Answer: Yes. Through the construction contracting process and certified payroll the City has this data and information and can summarize and report to Council on a regular basis so that success could be monitored and contracting trends observed. That is how the information in the Agenda Report about local worker utilization was generated.

4) Question: A Council Member reached out directly to specific Unions who stated they were unaware that this Agenda Item was before Council. What outreach occurred for this agenda item?

Answer: At the September 2021 Study Session staff and Council discussed and Council confirmed the Stakeholder list for this work effort. This list was the basis for the Project Plan describing the outreach. Regarding this Agenda Item, during our March 31st meeting with the Tri-Counties Building and Construction Trades Council we informed them that we would be presenting to Council on April 19th they indicated they would provide outreach to their membership. The Tri-Counties Building and Construction Trades Council Executive Secretary, Joshua Medrano, was also included in the distribution list when the agenda was published as were all stakeholders. Staff relied on the representative groups, such as the Chamber of Commerce and Tri-Counties Building and Construction Trades Council to provide this information to their memberships they represent.

5) Question: If Council chooses Alternative 1, are we still able to ensure that projects under \$15M pay prevailing wage to all employees?

Answer: All workers on all City capital projects are required to be paid prevailing wage, regardless of union status; that's state law and isn't influenced by coverage by a CWA.

6) Question: It sounds like many non-union firms don't always provide benefits (health and pension) to their employees. Instead, they sometimes provide higher wages and expect that the employees will purchase insurance and save for retirement. Is it possible to negotiate contracts with non-union firms to NOT do that?

Answer: From the City's local contractor outreach efforts, information was not requested regarding their company's practice of providing retirement or medical packages to their employees. If local contracting companies are not providing a retirement or medical insurance, this is not something that we could legally require or address in our bid specifications for capital projects.

- 7) Question: With the WRRF agreement, did we attempt to negotiate a clause that would allow for workers to get their benefits from the employer, if provided, rather than the employer having to pay those fees to the union? Is this something we would try to negotiate this time, to lessen the burden of using the union process for non-union companies?**

Answer: *Staff is unaware of any successful negotiations to remove requirements for the payment of fringe benefits to the union for employees subject to a CWA who already receive pension or other fringe benefits from their non-union employer. The Council obviously could give negotiating direction to staff to pursue such a term if that is the consensus of the Council majority, but it is staff's understanding based on prior negotiations and discussions with others who have negotiated CWAs that union representatives are not amenable to such terms.*

- 8) Question: Do we have any data on the use of CWAs and their impact on increasing workers from under-represented groups in projects (women, veterans, minorities, etc.)?**

Answer: *The Council could direct staff to negotiate provisions designed to maximize recruitment from underrepresented groups, but for the purpose of economic development and supporting the local workforce, staff has not conducted any analysis and does not have the data to forecast the likelihood of successfully enhancing under-represented group participation via the CWA mechanism or how such terms might relate to the Council's local worker employment objective.*

Question: Do non-union employers pay twice for benefits (ie, they pay for health insurance for an employee, and then they also have to contribute to the union as well, for insurance). Has this been our experience with the WRRF? Have we received information from any of the contractors that they are paying double benefits? Or that there have been any gaps in coverage?

Answer: *The awarded prime contractor for the WRRF project was union, so a CWA likely has minimal cost impacts to them and their employees as it would be no change from normal business practices.*

The concern with health insurance by non-union employers is the potential for gaps in coverage for employees as well as additional costs to the employer. The State Department of Industrial Relations (DIR) establishes basic hourly rates and fringe benefit amounts (health, pension, vacation/holiday, training, etc.) that must be provided to the employee by the employer. Non-union contractors must provide benefits of equivalent value as the fringe benefit amounts established by DIR or pay those benefits directly to employees as wages. On CWA covered projects, non-union contractors must pay these fringe benefits to the union trust on their employee's behalf and may also choose to maintain payments to their own fringe benefit package (i.e. "double pay"). If a non-union employer chooses to do this, an employee can choose to receive fringe benefits (such as healthcare) through the trades or keep an employer provided plan if they have one.

If their employees' project work is less than the vesting period, an employer may either continue to pay fringes through their own program AND make the Union contribution, to keep employees whole, at a "double" (or at least increased) cost to the employer, or they may cease making their existing contributions to their plan and direct those funds to the union, potentially resulting in the same cost to the employer, but a loss to the employees who won't see those benefits if they don't work a project long enough to vest. It's not different from the contributions from employers for employees that never vest and never get a benefit that all pension funds rely on (e.g., PERS vesting takes five years and if an employer contributes for four and the employee leaves public employment and never draws a pension, the pension fund benefits from those employer contributions, but the non-vesting employee does not).

See Packet Page 1136 and 1137 for additional discussion of Wages and Benefits.