



## Council Agenda Report

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Item 6d

**Department:** Public Works  
**Cost Center:** 5001  
**For Agenda of:** 4/19/2022  
**Placement:** Business  
**Estimated Time:** 60 Minutes

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

**Prepared By:** Brian Nelson, Deputy Director of Public Works and City Engineer

**SUBJECT:** COMMUNITY WORKFORCE AGREEMENT: PHASE 2 DATA ANALYSIS, OUTREACH, AND DRAFT POLICY DEVELOPMENT

### RECOMMENDATION

Authorize staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include the Cultural Arts District Parking Structure (vertical construction component only), Prado Road Interchange, and Public Safety Center projects, including a 60% local worker participation goal and excluding prevailing wage services provided through professional services agreements.

### REPORT-IN-BRIEF

The 2021-23 Financial Plan includes the Major City Goal (MCG) of Economic Recovery, Resiliency & Fiscal Sustainability. The MCG intends to implement a strategic approach focused on economic resiliency by supporting a thriving local economy in addition to practicing fiscal responsibility, paying down unfunded pension liabilities, and investing in critical infrastructure.

One of the work programs included in the Financial Plan to advance this MCG (Item 1.1f)<sup>1</sup> is establishment of an internal working group to research and develop various methods to support the participation of local contractors, local vendors, and local labor in public projects through workforce agreements, local purchasing requirements, and alternative project delivery methods. This report focuses on the evaluation and potential policy framework for a community workforce agreement (CWA).

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<sup>1</sup> MCG Item 1.1f: "Hire a consultant, support legal review, and establish an internal working group and hire a consultant to research methods to support local contractors, local vendors, and labor through workforce agreements, local purchasing requirements, alternative project delivery methods, and other options to support local businesses and employees. The Community Services Group will be leading this effort".

CWAs are “pre-hire” collective bargaining agreements between a project owner (City), contractors that perform the project work and building and construction trade unions. A CWA establishes standard terms and conditions of employment for workers on a qualified construction project, including work conditions, hiring procedures, wages and benefits, management rights, dispute resolution procedures, and procedures to prevent work stoppages. In addition, CWAs often include provisions to promote participation in covered projects by targeted workers and demographics, including local residents, apprentices, historically underutilized or underrepresented residents or groups, and veterans. In the context of furthering the MCG, Council has provided input to staff that a top priority objective of any City CWA should be local worker participation requirements and enhancement of employment of local residents on City public projects, without compromising quality and expertise on City projects.

Following a Council Study Session held in September 2021, staff performed extensive stakeholder outreach and analyzed actual local hiring totals for the City’s Capital Improvement Program (CIP) projects to determine historical local worker participation. The stakeholder outreach process, historical CIP project review, and the resulting staff recommendation are informed by these efforts and are detailed in the body of this report.

## **DISCUSSION**

### **1. Background**

#### ***1.1. Workforce Agreement Task in Major City Goal***

With the adoption of the 2021-23 Financial Plan, Council established a Major City Goal (MCG) of Economic Recovery, Resiliency, and Fiscal Sustainability. To help achieve this goal, Council outlined a specific task to research methods to support the participation of local contractors, local vendors, and local labor in public projects through workforce agreements, local purchasing requirements, and alternative project delivery methods. This work effort has been broken into three general phases:

**Phase 1 (complete).** Council Study Session to provide input and guidance on the work effort and develop a project plan based on Council feedback. The Study Session was held in September 2021.

**Phase 2 (current phase).** As framed by input and guidance from the phase one Study Session, develop a policy framework for Community Workforce Agreements (CWAs), alternative project delivery, and local purchasing. Within this policy framework, identify CWA negotiating objectives for Council consideration.

**Phase 3.** Council consideration of programs and policies, and direction for implementation of the same.

Based on direction received from Council in the phase one Study Session, this report focuses on the evaluation and potential policy framework for CWAs; local purchasing is part of an item being brought forward by the Finance Department and scheduled for the May 17th Council meeting. Alternative project delivery methods are currently under evaluation as part of the implementation of the Management Partners CIP Process Improvement study.

### ***1.2. Definition and Purpose of a CWA***

CWAs, sometimes referred to as Project Labor Agreements, or Project Stabilization Agreements, are "pre-hire" collective bargaining agreements between a project owner, contractors and building and construction trade unions. A CWA establishes standard terms and conditions of employment for a qualified construction project, including work conditions, hiring procedures, wages and benefits, management rights, dispute resolution procedures, and procedures to prevent work stoppages. In addition, CWAs often include provisions to promote participation in covered projects by targeted workers and demographics, including local residents, apprentices, historically underutilized or underrepresented residents or groups, and veterans. CWAs can apply to a single project, projects with budgets over a specified threshold, different types of projects, or all projects undertaken by a project owner. CWAs must be included in the bid documents for covered projects, and the provisions apply to the prime contractor and subcontractors of every tier.

### ***1.3. City Experience with a CWA***

The City previously negotiated and entered into a CWA with the Tri-Counties Building and Construction Trades Council (Trades Council) for the SLO Water Plus Project (i.e., WRRF Upgrade) in December 2018, completed in advance of project bidding, with the primary objective defined by the Council of maximizing the employment of local residents. This was the first such agreement the City has approved. The agreement included a local worker participation goal of 30%.

By February 2022, approximately 79% of all labor hours (141,200 hours) on the SLO Water Plus Project (WRRF) have been performed by workers residing in San Luis Obispo, Santa Barbara, Monterey, and Ventura Counties (defined in the CWA as "local workers"), representing a significant reinvestment of construction funds into the local economy. Table 1 presents the labor hours worked by residents of each tier on the SLO Water Plus Project.

**Table 1.** SLO Water Plus Project Labor Hours by Tier

No.	Tier	Description	Labor Hours	% of Total Labor Hours
1	1	City of San Luis Obispo	7,551	6%
2	2	San Luis Obispo County	65,042	46%
3	3	Monterey and Santa Barbara Counties	39,341	28%
4	4	Ventura County	46	<1%
5	N/A	Non-Local	29,263	21%
6		TOTAL	141,243	100%

#### ***1.4. CWA Alignment with Major City Goal***

The City's ongoing Capital Improvement Program (CIP) includes numerous construction projects that will provide the infrastructure required for economic vitality, neighborhood wellness, housing, transportation, sustainability, active and passive recreation, public safety, cleanliness, and other basic amenities. In November 2020, voters approved a 1.5% local sales tax (Measure G-20) that replaced the previous 0.5% local sales tax. The increased revenue from passage of Measure G-20 added about \$15 million to the annual General Fund capital budget, allowing for a more expansive Capital Improvement Plan. The public projects included in the City's CIP present an opportunity to continue enhancing the employment of local residents by negotiating a CWA with the Trades Council that includes a local worker participation goal. Key considerations regarding potential CWA implementation for the City's CIP projects are described in Attachment A.

#### ***1.5. Council Study Session Feedback***

A Study Session was held in September 2021 to present strategies identified by staff to support the local economy and to receive feedback from Council on the work program. The Study Session included a guided discussion with a series of questions intended to determine Council's preferred strategies and implementation priorities, and to inform the subsequent phases of the work program. The following feedback/direction was provided to staff during the Study Session:

1. Council supported analysis and implementation of the draft strategies as separate work efforts.
2. Council confirmed that its primary objective in considering implementation of a more broadly applicable CWA is to prioritize employment of local workers.
3. Council recommended using the SLO Water Plus CWA as a model for a future CWA.
4. Council recommended the CWA evaluation include consideration of appropriate cost thresholds and types of projects for inclusion in the CWA.
5. Council identified additional stakeholders to be included in the stakeholder outreach effort.

Additional feedback from individual Councilmembers regarding the potential inclusion of participation goals for women, veterans, underserved populations, and Cuesta graduates was also provided. This CWA evaluation is focused on the employment of local workers and analysis of additional targeted worker demographics can be evaluated as a separate work effort upon direction from Council.

At the conclusion of the Study Session, staff outlined the plan for Phase 2 of the work program including stakeholder outreach and a review of the City's past and current CIP to inform policy recommendations for consideration by Council.

## 2. Stakeholder Outreach

Following the phase one Study Session, staff began the stakeholder outreach process. A Stakeholder Outreach Plan was prepared consistent with the City's Public Engagement and Noticing (PEN) Manual. The Stakeholder Summary presented in Table 2 below was prepared as a part of the Stakeholder Outreach Plan and was used to guide the stakeholder outreach effort.

**Table 2.** Stakeholder Summary

No.	Stakeholder	Communication Objective
1	SLO Chamber of Commerce	Inform and Consult
2	Downtown SLO	Inform
3	Public Works Contractors	Inform and Consult
4	Local Consultants	Inform and Consult
5	SLO County Builders Exchange	Inform and Consult
6	Tri-Counties Building and Construction Trades Council	Inform, Consult, Collaborate
7	Central Coast Labor Council	Inform
8	Cuesta College	Inform
9	Hancock College	Inform
10	Cal Poly	Inform

An informational document with responses to frequently asked questions (FAQ) was developed by staff and shared with each stakeholder to provide background on CWAs and the relationship between CWAs and the MCG. This FAQ document is included with the report as Attachment B. The following sections provide additional detail on the outreach efforts for each stakeholder group.

### ***2.1. Local Business Associations***

#### **Downtown SLO and SLO Chamber of Commerce**

Downtown SLO and the SLO Chamber of Commerce were identified as potential stakeholders because they represent the interests of many local businesses. Downtown SLO and the SLO Chamber of Commerce were briefed by staff and provided with a copy of the FAQ document for additional information.

#### **SLO County Builders Exchange**

The SLO County Builders Exchange (Builders Exchange) is a non-profit contractors association whose membership includes over 500 contractors, subcontractors, and suppliers in the local construction industry. The Builders Exchange provides numerous services to its membership, including distribution of public and private bid opportunities and training for construction-related topics such as prevailing wage requirements, public works bidding requirements, and safety certifications.

Staff met with the Builders Exchange Executive Director and several Officers to inform the organization of the City's CWA evaluation effort and to solicit the group's feedback. The Builders Exchange expressed opposition to implementation of a CWA citing the following concerns: 1) limitations on ability to utilize core workforce, 2) qualifications of union referrals, 3) implementation costs, 4) reduced efficiency, 5) loss of worker contributions to union pension programs, 6) reduced competition, 7) lack of local union workers required to meet local worker participation goals, 8) increased risk of work stoppages and strikes, and 9) reduced opportunities for local contractors to participate.

### ***2.2. Public Works Contractors***

Public works contractors were identified as a key stakeholder group as implementation of a CWA will significantly change the requirements for bid award and employment of craft labor on City projects, which directly impacts the employers (i.e., construction contractors) who provide craft labor to the City. Staff prepared a list of questions that were posed to contractors via video conference and phone survey. The survey included a series of simple questions intended to facilitate aggregation and reporting of responses along with open-ended questions that provided respondents an opportunity to provide additional feedback. The questions were crafted to determine how implementation of a CWA would affect respondents' future pursuit of City public projects.

To identify a representative group of contractors to engage, staff tabulated information for all public projects with bid closing dates between January 2018 and September 2021. The low bidders were identified and a group of contractors who were awarded different project types (e.g., street improvements, buildings and structures, bridges, wet utilities, etc.) and sizes (e.g., \$1-\$250K, \$250K-\$1M, and \$1M-\$5M) were selected. Sixteen contractors were contacted and twelve participated in the survey. One respondent (Cal Portland) was not initially identified as a potential survey participant, but contacted Public Works staff after learning of the City's CWA evaluation efforts from colleagues. Survey respondents represent 51% of low bidders for all public projects awarded between January 2018 and September 2021 (78 total projects). Table 3 presents the contractors who participated in the survey and the number of City projects constructed by each from January 2018 to September 2021.

**Table 3.** Public Works Contractors Surveyed by Staff

No.	Name	Number of City Projects
1	Souza Corporation	11
2	R. Burke Corporation	9
3	Specialty Construction	4
4	Toste Construction, Inc.	3
5	Lee Wilson Electric	3
6	VSS International	3
7	Papich Construction	2
8	Smith MEP	2
9	Taylor Jane	1
10	Cushman Contracting Corporation	1
11	MGE Underground	1
12	Cal Portland	0
13	TOTAL	40

Questions posed to the public works contractor stakeholder group are presented below along with a summary of the feedback received. The first several questions were included to determine each respondent's familiarity with CWAs along with their labor contract signatory status. As described in Attachment A, CWAs affect non-union contractors more than union contractors. Establishing whether the respondents were current signatories to a union agreement helped staff gauge responses to subsequent questions in the survey. Questions 1-3 are presented in Table 4 below along with the responses received.

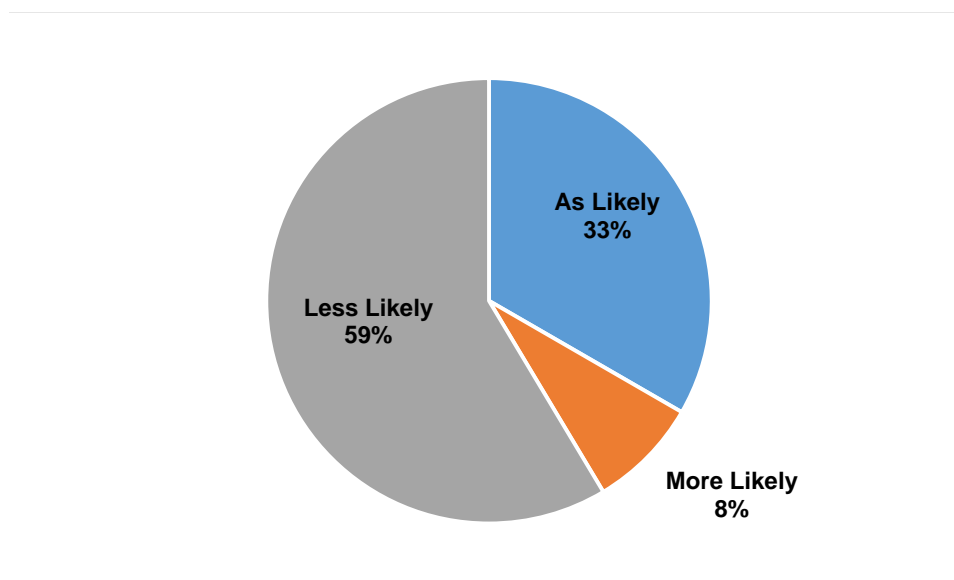
**Table 4.** Public Works Contractor Survey Responses

No.	Question	Yes	No
1	Are you familiar with CWAs and the associated requirements?	83%	17%
2	Have you ever worked under a CWA?	42%	58%
3	Are you a union signatory contractor?	58%	42%

The remaining survey questions and responses are described in greater detail in the following sections.

***Question 4: Would you be more likely, less likely, or as likely to bid City projects if subject to a CWA?***

This question was included in the survey to determine if contractors who have historically bid on City projects would be more, less or equally likely to bid on future City projects if subject to the requirements of a CWA. The responses to this question are presented in Figure 1 below.

**Figure 1.** Likelihood of Surveyed Contractors to Bid CWA-Covered Projects

The respondent who indicated its company would be more likely to bid noted that a CWA would deter inexperienced contractors from bidding. The respondent noted that in general, contractors who aren't experienced with public works construction can underbid projects because they don't understand the complexity of prevailing wage and public contract code requirements, which decreases experienced contractors' chances of being the lowest responsive bidder.

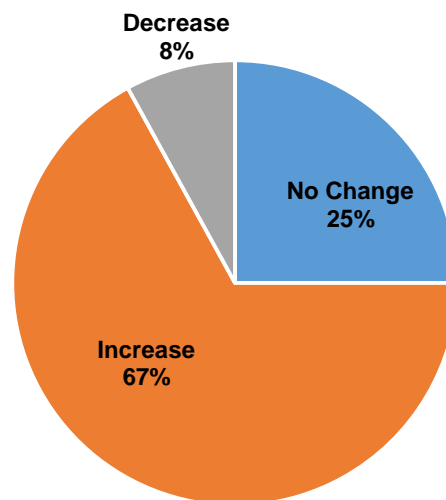


Respondents who indicated they would be less likely to bid CWA-covered projects expressed concern with 1) limitations to employing their core workforce, 2) lack of certifications for union-referred workers required for performance of the work (e.g., hazardous materials transportation), 3) impacts to employer provided healthcare and pension benefits for employees, 4) jurisdictional issues, and 5) reduced efficiency. Concerns raised by multiple respondents are discussed at the end of this section of the report.

Respondents who indicated they would be as likely to bid CWA-covered projects noted CWAs are consistent with their current business practices. These respondents were all union-signatory contractors.

***Question 5: Would a CWA increase, decrease, or not affect your bid price?***

This question was included in the survey to determine how a CWA would affect bid pricing for future City projects. While qualitative, responses to this question provide some indication of how bid prices would be affected if a CWA were implemented. The responses to this question are presented in Figure 2 below.



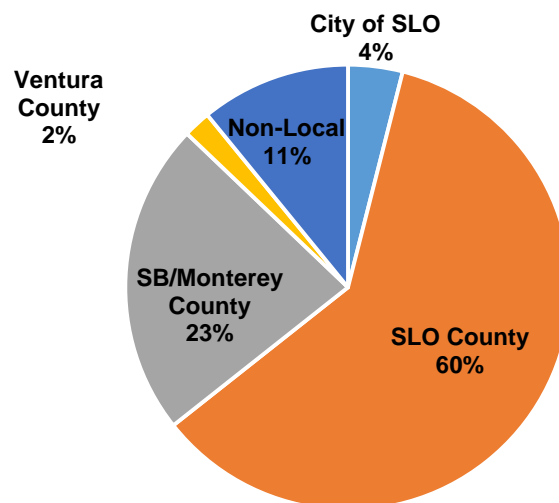
**Figure 2.** Potential Impact of CWA on Contractor Bid Price

Respondents who indicated a CWA would increase their bid price noted the following: 1) presumed decrease in competitive bids, 2) increased administrative requirements, 3) penalties for non-compliance with targeted worker participation goals, 4) double payment of benefits, 5) increased risk, 6) union dues, 7) reduced efficiency, 8) decreased quality, 9) impacts to safety program, and 10) unfunded union pension liability. Concerns raised by multiple respondents are discussed at the end of this section of the report.

The respondent who indicated a CWA would reduce their bid price noted that they would be more competitive on a CWA-covered project. Respondents who indicated a CWA would not impact their bid price noted the following: 1) prevailing wage rates are the same on all public projects, regardless of union affiliation; 2) CWAs are consistent with current bidding and employment practices for union signatory contractors.

**Question 6: What percentage of your craft workers are 1) City of San Luis Obispo residents, 2) San Luis Obispo County residents, 3) Santa Barbara or Monterey County residents, 4) Ventura County residents, and 5) residents of other areas?**

As previously noted, the SLO Water Plus CWA defines “local workers” as residents of the City of San Luis Obispo or San Luis Obispo, Monterey, Santa Barbara, and Ventura Counties. The intent of this question was to determine where craft worker employees of contractors who have historically constructed City projects reside. Of the surveyed contractors, an average of 89% of their craft workers are local workers as defined in the SLO Water Plus CWA. Responses to this question have been averaged and are presented in Figure 3 below.



**Figure 3. Location of Contractor Craft Workforce**

**Question 7: In your opinion, does a CWA benefit the covered project?**

The intent of this question was to determine if respondents were generally supportive of CWA implementation and to provide an opportunity to share additional feedback. Four of the 12 respondents, or 33%, believed CWAs benefit covered projects. Respondents who believe CWAs are beneficial noted the following: 1) increased participation by local workers, 2) skilled workforce from union trades, 3) increased employment opportunities for union workers who have dedicated their careers to the construction trades, 4) union benefits, and 5) increased quality of work.

Respondents who believed CWAs do not benefit covered projects expressed the following concerns: 1) lack of provisions to consider participation by local vendors and materials suppliers; 2) reduced efficiency, productivity, quality, and safety from core workforce limitations; 3) reduced competition; 4) increased project cost; 5) fewer bidding opportunities for non-union contractors; 6) local workers are already being employed without a CWA; 7) absence of local contractors for specialty work; 8) unfair advantage to union contractors; 9) increased administrative burden; 10) reduced employment of local workers; 11) fewer union workers available for union contractors if workers dispatched to non-union contractors on covered projects; 12) lack of local subcontractors who would be willing to sign CWA; and 13) concern with ability to end union affiliation after single project agreement. Key concerns shared by multiple respondents are discussed in the following section.

### **Public Works Contractor Outreach Summary**

Contract or opinions regarding CWA implementation were mixed, and not clearly divided based on union affiliation. While 58% of respondents were union signatories, only 33% believed CWAs benefit covered projects, 58% would be less likely to bid CWA-covered projects, and 67% indicated CWAs would increase their bid price. Issues raised by contractors during the outreach process are discussed in greater detail below.

### **Core Workers**

Attachment A includes detailed information on CWA hiring procedures, core worker limitations, and a comparison of impacts to union and non-union contractors. In short, construction unions are designated as the exclusive source of craft labor on CWA-covered projects. This requirement does not impact union contractors, because they only employ union members and rely on union hiring halls to refer workers to their projects when needed. Non-union contractors are limited in their ability to employ their regular workforce on CWA-covered projects. CWAs limit the number of existing employees who meet the negotiated qualification requirements, or “core workers”, non-union contractors can employ on a project (typically three to six) and require all other workers be referred from union hiring hall out of work lists.

Several contractors who participated in the survey noted that limitations on core worker employment would reduce efficiency, increase risk, and reduce quality. These concerns are related to the integration of union-referred workers, with whom the contractor has no previous work history, into the contractor’s long-standing workforce. According to several respondents, efficiency is impacted when workers don’t have prior experience with the specific work being performed by the contractor or with the unique ways in which the contractor typically performs its work. Replacing a contractor’s long-standing, experienced employees with workers who have never worked for the contractor increases risk and can potentially impact quality and safety.

One respondent who performs pavement rehabilitation work throughout the Western United States noted that six of the nine workers it typically employs in its paving crew are required to hold a commercial driver license with a hazardous materials endorsement, which requires a federal background check. They expressed concerns that truck drivers with these classifications are difficult to find and might not be available through the union referral system. CWAs typically allow unions 48 hours to dispatch workers to employers when requested, after which the employer can hire workers from another source if the union is unable to refer workers. The paving contractor noted that this waiting period can impact project schedules and create logistical challenges when trying to fill open positions if the union referral system is unable to dispatch certified workers.

### **Benefits**

CWAs require that all contractors, regardless of their union affiliation, pay fringe benefit contributions to union trust funds on behalf of their employees working on the CWA project. Attachment A includes additional information regarding benefits on CWA-covered projects. Several non-union contractors expressed concern with the union trust fund contribution requirement for pension benefits. Union pension plans require a minimum vesting period (typically 10,000 hours or five years) before participants can redeem retirement benefits. Non-union craft workers might not work sufficient hours on a CWA-covered project to become vested in a union pension fund, especially for shorter duration projects or for contractors who perform limited scope on covered projects. This would result in a significant loss of income for the employee who doesn't become vested, as the pension fringe benefit can be between 8% and 20% of the employee's total hourly rate, depending on the worker classification (e.g., laborer, cement mason, carpenter, etc.). Attachment C provides additional information on prevailing wages and fringe benefits for a select group of construction craft worker classifications. Several surveyed contractors stated they would continue providing a retirement benefit to their employees in addition to making union trust fund contributions to mitigate the pension vesting issue, resulting in additional cost to the employer and likely to be passed on to the City.

Respondents also voiced concern with the union trust fund contribution requirement for medical benefits. These contractors currently provide medical benefits to their employees and requiring their workers to change healthcare plans can result in coverage gaps, changes to in-network providers, and changes to covered prescriptions. For contractors with limited scope/short duration work on CWA-covered projects, employees would potentially be required to exit their employer's medical plan, join the union plan, then exit the union plan and re-join the employer's plan at the conclusion of the CWA-covered work. Respondents noted that this transition is difficult for employees and their families, and several contractors stated they would continue providing a medical benefit to their employees in addition to making union trust fund contributions to address this issue, resulting in additional cost to the employer and likely to be passed on to the City.

### 2.3. Local Consultants

CWA provisions apply to all employers providing prevailing wage labor on covered projects, including consulting firms. The City has traditionally employed consultants through professional services agreements to provide construction inspection, surveying, and materials testing services. Construction inspection, surveying, and field materials testing are work classifications covered by the state prevailing wage determinations and would be subject to the requirements of a CWA.

Like the public works contractor outreach described in the preceding section, staff prepared a list of questions that were posed to consultants via video conference and phone survey. The survey included a series of simple questions intended to facilitate aggregation and reporting of responses along with open-ended questions that provided respondents an opportunity to provide additional feedback. The questions were crafted to determine how implementation of a CWA would affect respondents' future pursuit of City projects.

Seven of the ten consultants who provide on-call soils and materials testing, construction management, and land surveying services to the Public Works Department were contacted. All seven firms who were contacted by staff participated in the survey. Table 5 lists the firms who participated in the survey with staff.

**Table 5.** Local Consultants Surveyed by Staff

No.	Firm Name	Services Provided
1	Cannon	Construction Management/Surveying
2	Earth Systems Pacific	Soils and Materials Testing
3	Filippin Engineering	Construction Management
4	GeoSolutions	Soils and Materials Testing
5	Kitchell CEM, Inc.	Construction Management
6	MNS Engineers, Inc.	Construction Management
7	Wallace Group	Construction Management/Surveying

Questions posed to the local consultant stakeholder group are presented below along with a summary of the feedback received. The first several questions were included to determine each respondent's familiarity with CWAs along with their union signatory status. Questions 1-3 are presented in Table 6 below along with the responses received.

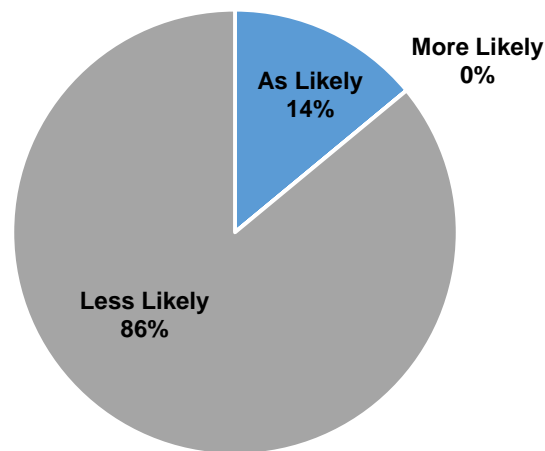
**Table 6.** Local Consultant Survey Responses

No.	Question	Yes	No
1	Are you familiar with CWAs and the associated requirements?	71%	29%
2	Have you ever worked under a CWA?	43%	57%
3	Are you a union signatory contractor?	0%	100%

The remaining survey questions and responses are described in greater detail in the following sections.

***Question 4: Would you be more likely, less likely, or as likely to provide professional services on City projects if subject to a CWA?***

This question was included to determine if consultants who have historically provided prevailing wage services on City projects under professional services agreements would be more, less, or equally likely to participate in future City projects if subject to the terms and conditions of a CWA. The responses to this question are presented in Figure 4 below.



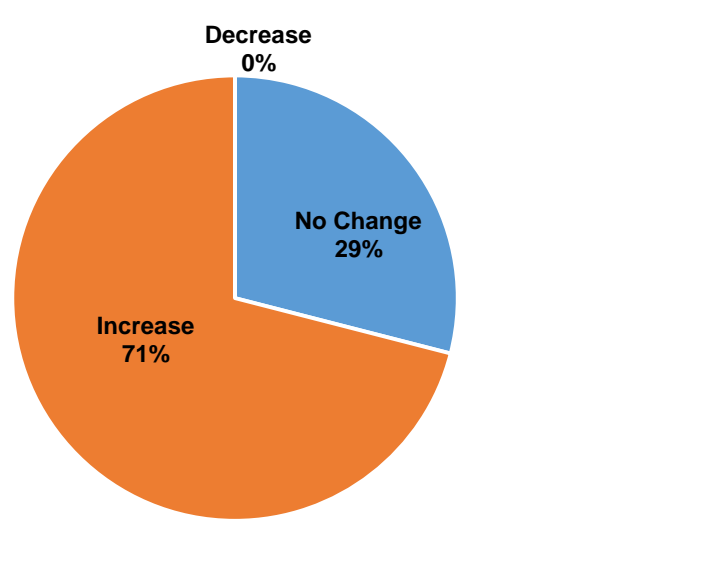
**Figure 4.** Likelihood of Surveyed Consultants to Participate in CWA-Covered Projects

The respondent who indicated its company would be as likely to participate in CWA-covered projects noted their standard practice of subcontracting all prevailing wage services. The respondent noted that if it was unable to find a subcontractor willing to sign on to the CWA or if they were required to self-perform prevailing wage services, they would be less likely to participate.

Respondents who indicated they would be less likely to participate in CWA-covered projects noted the following concerns: 1) increased risk and professional liability exposure by employing union referrals with no existing relationship to employer and unfamiliarity with employer-specific work practices; 2) increased costs associated with reduced efficiency, increased oversight, CWA administrative requirements, and potential for duplication of employer paid benefits costs resulting from payment of employee fringe benefits to union trust; 3) staff attrition by employees who do not want to be affiliated with unions; 4) significant learning curve associated with compliance with union requirements; and 5) limitations on employees who can be dispatched to covered projects (i.e., only employees who have registered with union can be dispatched). Several respondents who indicated they would be less likely to participate on CWA-covered projects further clarified they would not participate in City projects if subject to the requirements of a CWA.

***Question 5: Would a CWA increase, decrease, or not affect the cost of your services?***

This question was included in the survey to determine how a CWA would affect the cost of soils and material testing, construction inspection, and surveying on future City projects. It is noted that the response to this question is qualitative and does not reflect the extent to which pricing for professional services would be affected. The responses to this question are presented in Figure 5 below.

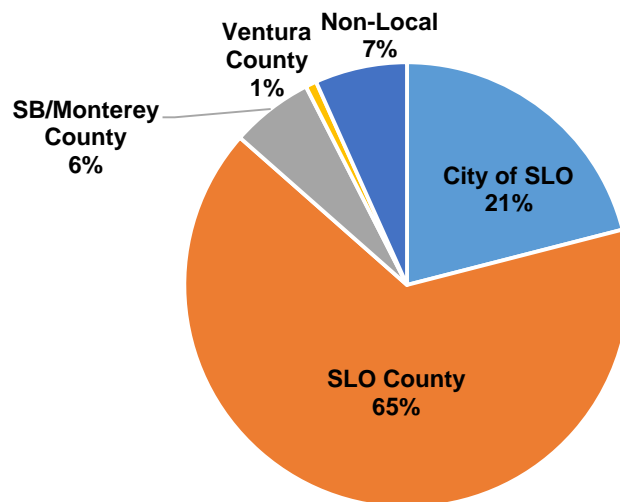


**Figure 5.** Potential Impact of CWA on Cost of Professional Services

Respondents who indicated a CWA would not affect their cost of service noted that prevailing wage requirements are the same on all public projects, regardless of whether a CWA is in place. Respondents who indicated a CWA would increase the cost of their services noted the following concerns: 1) increased administrative costs, 2) increased insurance costs, 3) increased exposure to professional liability claims, 4) double payment of benefits, 5) time associated with verifying work performed by union referrals, 6) overhead costs of union enrollment and union dues, and 7) four-hour minimum shift required by union master labor agreements regardless of time spent on site.

**Question 6: What percentage of your prevailing wage employees are 1) City of San Luis Obispo residents, 2) San Luis Obispo County residents, 3) Santa Barbara or Monterey County residents, 4) Ventura County residents, and 5) residents of other areas?**

The intent of this question was to determine where prevailing wage employees of consultants who have historically participated in City projects reside. Of the surveyed consultants, an average of 93% of prevailing wage employees met the criteria of local workers as defined in the SLO Water Plus CWA. Responses to this question have been averaged and are presented in Figure 6 below.



**Figure 6. Location of Consultant Prevailing Wage Workforce**

**Question 7: In your opinion, does a CWA benefit the covered project?**

The intent of this question was to determine if respondents were generally supportive of CWA implementation and to provide an opportunity to share additional feedback. Two of the seven respondents, or 29%, believed CWAs provided benefits to the construction craft workers on covered projects, but not to professional service providers.



Five of the seven respondents, or 71%, believed CWAs did not benefit covered projects. Feedback supporting this position included the following: 1) construction unions are the only beneficiaries, 2) increased cost, 3) increased risk, 4) not appropriate for the local market, 5) adversely impacts ability for local businesses to participate in covered projects, 6) counter to the City's goal of helping local businesses, 7) inherent conflict of interest with unions representing both quality assurance/quality control staff (e.g., inspection, materials testing, soil testing, surveying) and craft workers performing the work, 8) risk of decreased quality, 9) reduced opportunities for non-union companies to participate, 10) majority of local contractors and consultants are non-union, and 11) risk of preferring employment of workers from out of the immediate area (i.e., City and County of San Luis Obispo) even though technically considered "local" by CWA. Key concerns from this stakeholder group are discussed in the next section.

#### **Local Consultant Outreach Summary**

Most of the surveyed consultants (86%) stated they would be less likely, or unwilling, to provide services on City projects if CWA requirements apply to their prevailing wage staff. Issues raised by consulting firms during the outreach process are discussed in greater detail below.

#### **Core Workers**

Surveyed consultants voiced concern with limitations on their ability to utilize their core workforce on CWA-covered projects, similar to the concerns raised by contractors. Construction management firms noted their prevailing wage inspection staff have specific experience and skillsets that allow them to successfully perform their field duties. Respondents believe inspectors referred by the union hiring hall are unlikely to have the same qualifications and experience, which they believe increases the employer's risk. Respondents conveyed that this increased risk would require additional oversight by professional/salaried staff and might require redundant inspection positions, according to respondents.

Consulting firms who provide prevailing wage surveying services to the City emphasized the importance of team dynamics in the efficient and accurate performance of their work. Typical survey crews are small (two to four employees), and respondents believe introducing new workers (i.e., union referrals) into a survey crew would potentially reduce efficiency and require additional oversight to verify the accuracy of the work products.

### **Benefits**

Surveyed consultants voiced similar concerns as contractors regarding the requirement to pay fringe benefits to union trusts for their employees on CWA-covered projects. Consultants noted 1) possible lapses in health insurance coverage when moving between employer and union-provided plans, 2) inability to work sufficient hours to vest in union pension programs resulting in certain payments made to the union, with no benefit realized by employees and 3) the likelihood that employers would need to effectively double-pay benefits to reduce impacts to their staff, adding employer paid benefit costs to the costs of service. Attachment C includes a summary of prevailing wages for construction inspectors and land surveyors, including the fringe benefits that would be paid to the union trust on behalf of the employee on CWA-covered projects.

Respondents also highlighted the intermittent nature of the prevailing wage services they provide on public projects, and the resulting complications for the provision of benefits to employees. For example, the City routinely requests special inspection or soils testing at discrete hold points as detailed in the construction specifications (e.g., structural welding, soil compaction testing, etc.). The on-call service provider dispatches an inspector to perform the required inspection, which typically only requires four to eight hours out of a 40-hour work week. Several respondents noted that the limited time spent on a CWA-covered project in a typical work week would necessitate the double-payment of benefits, as employees would not qualify for union benefits when not working full time on the CWA-covered project.

### **2.4. Higher Education**

Cal Poly, Cuesta College, and Allan Hancock College were identified by City Council as potential stakeholders to be included in the outreach effort. Each organization was contacted and invited to participate in a discussion with staff to explore the potential alignment between CWAs and university programs/initiatives. Feedback was not provided as part of the initial outreach effort, but additional outreach can be performed if Council decides to move forward with CWA implementation.

### **2.5. Construction Trades Organizations**

The Tri-Counties Building and Construction Trades Council (Trades Council) is a principal stakeholder for this project as the primary negotiating party with the City for the CWA. Staff met with Trades Council representatives following the September 2021 Study Session to discuss the Trades Council's objectives, review direction provided by Council during the Study Session, and to discuss next steps. A draft CWA was transmitted by the Trades Council in February 2022, with suggested modifications, for review by City staff. Consistent with Council's feedback, the draft CWA is based on the SLO Water Plus CWA, with several changes based on outreach and data analysis and to be discussed with the Trades Council if Council directs staff to proceed with negotiations on final terms.

The Central Coast Labor Council (Labor Council) was identified as a potential stakeholder by City Council during the phase one Study Session. Staff met with the Executive Director of the Labor Council and discussed the City's CWA evaluation effort. The Executive Director indicated that the Labor Council would likely be more engaged with elected officials to generate support for a CWA if negotiations proceed.

### **2.6. Outreach Summary**

A broad range of stakeholders were engaged during the outreach process, including those who will be most directly impacted by the implementation of a CWA (i.e., contractors and consultants). The outreach process helped identify many important considerations that have informed the recommendations presented later in this report.

## **3. Historical CIP Analysis**

An analysis of past CIP projects was performed to identify the location of bidders who have historically bid on City projects and to determine the types of projects for which a CWA would be most effective in increasing employment of local workers. Fourteen public projects of varying types and costs completed between January 2018 and September 2021 were selected for review. Table 7 lists the projects included in this analysis along with project cost, project asset type, the prime contractor, and location of the prime contractor.

**Table 7.** CIP Projects Selected for Review

No.	Project Name	Project Cost	Project Asset Type	Project Type	Prime Contractor	Location of Prime Contractor
1	City Facility HVAC	≤ \$250K	Asset Maintenance or Replacement	Buildings and Structures	Smith MEP	Santa Maria
2	Meadow Park Pathway Maintenance	≤ \$250K	Asset Maintenance or Replacement	Bicycle Paths	Souza Construction	San Luis Obispo
3	Mission Plaza Railing 2021	≤ \$250K	Asset Maintenance or Replacement	Parks and Recreation	Taylor Jane Construction LP	Nipomo
4	Swim Center Bath House Roof Repair	≤ \$250K	Asset Maintenance or Replacement	Buildings and Structures	American Foam Experts	Herald
5	Wash Water Supply Tank No. 2	≤ \$250K	Asset Maintenance or Replacement	Wet Utilities	Paso Robles Tank, Inc	Hemet

No.	Project Name	Project Cost	Project Asset Type	Project Type	Prime Contractor	Location of Prime Contractor
6	Bullock CMP	\$250K - \$1M	Asset Maintenance or Replacement	Wet Utilities	Souza Construction	San Luis Obispo
7	Islay Park Playground	\$250K - \$1M	Asset Maintenance or Replacement	Parks and Recreation	RE Schultz	Orange
8	Sinsheimer Irrigation and Stadium Drainage	\$250K - \$1M	Asset Maintenance or Replacement	Parks and Recreation	Empire Landscaping Inc	Davis
9	Concrete Streets	\$250K - \$1M	Asset Maintenance or Replacement	Street Improvements	R. Burke Corporation	San Luis Obispo
10	Anholm Phase 1A	\$250K - \$1M	New Asset	Street Improvements	Lee Wilson Electric	Arroyo Grande
11	South Hills Radio Site Upgrades	\$250K - \$1M	New Asset	Buildings and Structures	Specialty Construction	San Luis Obispo
12	Casa Stenner Murray Waterline Project	\$1M - \$5M	Asset Maintenance or Replacement	Wet Utilities	S Chavez Construction	San Luis Obispo
13	RRST Taft to Pepper	\$1M - \$5M	New Asset	Bicycle Paths	Souza Construction	San Luis Obispo
14	South Broad Street Pavement Improvements	\$1M - \$5M	Asset Maintenance or Replacement	Street Improvements	Papich Construction Company	Arroyo Grande

The location of craft workers who worked on the selected projects was determined by reviewing certified payroll reports (CPRs). CPRs list the hours worked by each employee during the reporting period (typically one week), along with the zip code of the worker's residence. Once the CPR data was compiled, local worker participation was analyzed based on project type, project size, and the location of the prime contractor. Local workers were defined as residents of the city of San Luis Obispo or San Luis Obispo, Santa Barbara, Monterey, and Ventura Counties, consistent with the SLO Water Plus CWA.

### 3.1. Local Worker Participation by Project Asset Type

CIP projects in the City budget are categorized by project asset type and are identified as either 1) New Assets or 2) Asset Maintenance and Replacements. New Assets are the construction and/or installation of new capital facilities or assets such as roads, water treatment equipment, new water or sewer pipelines, or new buildings and facilities. Asset Maintenance and Replacements are the repair, replacement, or rehabilitation of existing capital assets. Examples of Asset Maintenance and Replacement projects include street resurfacing, playground equipment replacement, and pipeline rehabilitation. Of the 14 projects listed in Table 7, 11 are Asset Maintenance or Replacement and three are New Asset project asset types.

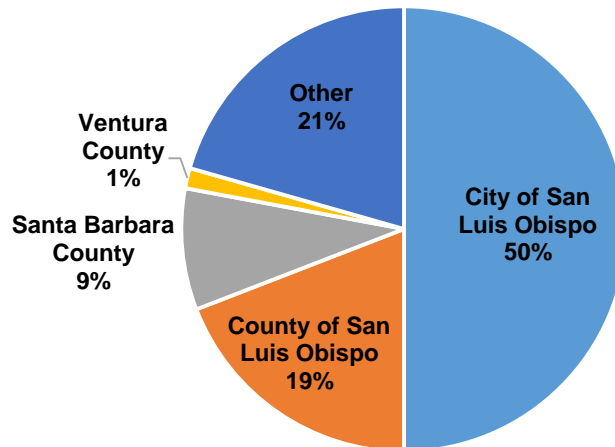
The projects in Table 7 were grouped by project asset type to compare local worker participation percentages. The results of this analysis are presented in Table 8.

**Table 8.** Local Worker Participation by Project Asset Type

No.	Project Asset Type	Local Worker Hours	Total Labor Hours	Local Worker Participation
1	New Assets	12,134	12,762	88%
2	Asset Maintenance or Replacement	21,310	24,343	95%
3	TOTAL	33,444	37,105	90%

The data shows that 88% of all labor hours on New Asset projects were performed by local workers and 95% of all labor hours on Asset Maintenance or Replacement projects were performed by local workers.

Further analysis was performed on Asset Maintenance or Replacement projects as this project asset type comprises a significant portion of the CIP budget. Bidder location data was compiled for all 68 Asset Maintenance and Replacement projects with bid closing dates between January 2018 and September 2021. Figure 7 presents the location of the low bidders for these projects.



**Figure 7.** Bidder Location for Asset Maintenance and Replacement Project Asset Type

As the figure illustrates, 79% of the low bidders for the City's Asset Maintenance and Replacement projects are located in the City of San Luis Obispo or San Luis Obispo, Santa Barbara, and Ventura Counties. Contractors based in the City were awarded 50% of the Asset Maintenance and Replacement projects for which bidder information was compiled. This finding is noteworthy, as it shows that contractors based in the City are constructing most of the City's Asset Maintenance and Replacement projects.

In summary, local contractors constructed most of the Asset Maintenance and Replacement projects in the January 2018 to September 2021 review period, with 50% of all projects constructed by contractors based in the City. Of the 11 Asset Maintenance and Replacement projects reviewed in detail by staff, 95% of all labor hours were performed by local workers. This analysis indicates local contractors are primarily employing local workers, a finding that is supported by additional data presented later in the report.

### 3.2. Local Worker Participation by Project Type

The selected projects were grouped by type to determine average local worker participation percentages. The results of this analysis are presented in Table 9.

**Table 9.** Local Worker Participation by Project Type

No.	Project Type	Local Worker Hours	Total Labor Hours	Local Worker Participation
1	Buildings & Structures	1,024	1,337	84%
2	Bicycle Paths	9,802	10,183	96%
3	Parks and Recreation	1,166	3,619	32%
4	Wet Utilities	12,890	13,156	98%
5	Street Improvements	6,755	6,765	99%
6	TOTAL	33,444	37,105	90%

In general, the local worker participation percentages were high for all project types with the exception of Parks and Recreation projects. Local worker participation percentages were lower for this group because two of the three projects included were awarded to non-local contractors (i.e., contractors not based in San Luis Obispo, Monterey, Santa Barbara, or Ventura Counties).

Of the Parks and Recreation projects analyzed (See Table 7), 78% (7 out of 9) of bidding contractors were local, with a non-local contractor being the low bid on only the Sinsheimer Irrigation and Stadium Drainage Project. The low bid contractor on Islay Hill Park Playground was local, however, was found to have submitted a non-responsive bid<sup>2</sup>, resulting in the project being awarded to the second-low bidder, who was non-local. If the awarded contractors were local, it is likely the local worker participation percentage would have been largely consistent with the other project types in Table 9.

In total, the local worker participation for all projects reviewed was 90%.

<sup>2</sup> To be considered responsive, a bid must comply in material respects with the invitation for bids. On Islay Park Playground, the low bid contractor was deemed non-responsive because they failed meet the minimum qualifications, including recent park construction experience with a city, county, state, or federal agency.

### 3.3. Local Worker Participation by Project Cost

The selected projects were grouped by size to determine average local worker participation percentages. The results of this analysis are presented in Table 10.

**Table 10.** Local Worker Participation by Project Cost

No.	Project Cost	Local Worker Hours	Total Labor Hours	Local Worker Participation
1	≤ \$250K	2,909	3,448	84%
2	\$250K - \$1M	7,216	9,917	73%
3	\$1M - \$5M	23,319	23,741	98%
4	TOTAL	33,444	37,105	90%

Local worker participation percentages were high for each project cost category, with an average of 90% for all projects analyzed. Local worker participation percentages were lower for the \$250K - \$1M cost category because this category included the two Parks and Recreation projects constructed by non-local contractors described in the preceding section.

### 3.4. Large Project Comparison

Staff reviewed and compiled CPR data for the Los Osos Valley Road Overpass Project (LOVR Project) for comparison with the SLO Water Plus Project. Like the SLO Water Plus Project, the LOVR Project is a large project (i.e., cost >\$15M) constructed by a non-local contractor, however, the LOVR Project was constructed without a CWA in place. Table 11 presents local worker participation data for the LOVR and SLO Water Plus Projects.

**Table 11.** LOVR Project and SLO Water Plus Local Worker Participation

No.	Project	Local Worker Hours	Total Labor Hours	Local Worker Participation
1	LOVR Project	41,190	59,985	69%
2	SLO Water Plus*	111,980	141,243	79%

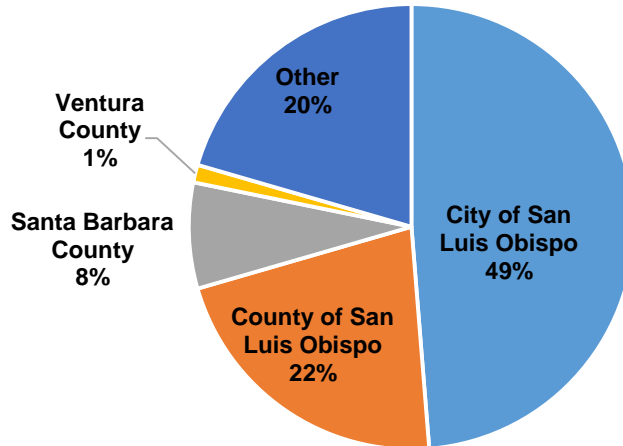
\*SLO Water Plus labor hours reported through February 2022.

The data shows that most of the labor hours on the LOVR Project were performed by local workers, and local worker participation was significantly higher than the 30% goal typically set forth in a CWA.



### 3.5. Local Worker Participation by Prime Contractor Location

A list of all contractors who were awarded public projects between January 2018 and September 2021 was tabulated to determine the contractor's location. Of the 78 projects awarded during this period, approximately 70% were awarded to local contractors (i.e., contractors based in San Luis Obispo, Monterey, Santa Barbara, or Ventura Counties). The results of this analysis are presented in Figure 8.



**Figure 8.** Location of Prime Contractor for Past City Projects

To determine if local contractors typically utilize local workers, the selected CIP projects listed in Table 7 were grouped by prime contractor location and the local worker hours were tabulated. The results of this analysis are presented in Table 12.

**Table 12.** Local Worker Participation by Prime Contractor Location

No.	Prime Contractor Location	Local Worker Hours	Total Labor Hours	Local Worker Participation
1	Local	33,021	33,690	98%
2	Non-Local	423	3,415	12%
3	TOTAL/AVERAGE	33,444	37,105	76%

The data confirms that most of the labor hours on projects constructed by local prime contractors were performed by local workers. In addition, the local hours presented in Table 12 are inclusive of subcontractor labor hours which indicates local contractors are also utilizing the services of local subcontractors.

### **3.6. Summary and Discussion**

The historical CIP analysis indicates local workers are performing most of the work on City public projects, regardless of project type or size. The one exception to this finding is for Parks and Recreation projects, where local workers performed 32% of the total labor hours for the selected projects. As previously noted, reduced local worker participation for this project type is attributed to the location of the prime contractors for the selected projects, two of which were non-local. Although local worker participation was lower for the selected Parks and Recreation projects, it was higher than the local worker participation goal typically set forth in CWAs (30%).

The analysis also indicates local contractors primarily employ local workers. Of the 14 past CIP projects reviewed, ten were constructed by local contractors and 98% of all labor hours were performed by local workers. Local workers only performed 12% of all work hours on the four CIP projects constructed by non-local contractors. Analysis of the LOVR Project – the second largest CIP project in City history – indicates 69% of all labor hours were performed by local workers. This finding is noteworthy as the LOVR Project was a large, multi-year project constructed by a non-local contractor without a CWA in place.

## **4. Fiscal Analysis**

The impact of CWA implementation on construction bids is difficult to quantify and beyond the scope of this report to evaluate comprehensively. Proponents of CWAs believe that these agreements reduce costs by improving labor reliability, increasing quality, and preventing schedule delays. Opponents argue that CWAs increase costs by reducing competition, increasing administration requirements, and requiring payment of fringe benefits to union trust funds. The only way to conclusively determine the impact of CWAs on construction bids is through a parallel bid process, whereby a pilot project would be advertised for bids both with and without a CWA requirement. This approach has been suggested by other agencies currently evaluating CWA implementation including Ventura and Santa Barbara Counties, however it is unclear if such a bidding arrangement would ultimately be acceptable to the agencies and the Trades Council.

This section of the report focuses on the costs that are more readily quantifiable including costs to support CWA negotiation, costs to incorporate CWA requirements into the City's standard construction contract and standard specifications, costs to develop procedures for CWA implementation, and costs to administer the CWA during construction. Budget for outside legal counsel and consultant staff to support these efforts, except for CWA administration, is included in the FY 21-23 Financial Plan.

### **4.1. CWA Negotiation**

CWA negotiation will require participation from the Community Services Group, the City Attorney's office, outside legal counsel, and consultant staff. While both Council and the Trades Council have expressed support of using the SLO Water Plus CWA as a template for negotiations, certain provisions of the agreement will likely require additional negotiation based on direction provided by Council.

#### **4.2. Development of Contract and Standard Specification Language**

If implemented, CWA provisions must be developed and incorporated into the City's standard construction contract documents so prospective bidders and subcontractors will be aware of their obligations regarding the agreement. Language is typically included in the bid advertisement, bid form, agreement, and the front-end documents to detail CWA requirements. In addition, the complete CWA is included in the contract documents as part of the front-end documents or as an appendix. It is recommended that a specification be developed to detail the targeted worker participation requirements, as the procedures for meeting participation goals and reporting requirements are typically not explained in detail in the CWA. The targeted worker specification will increase the likelihood of meeting the participation goals set forth, increase transparency in the process, and facilitate accountability of all parties to the agreement.

Development of CWA provisions for the City's standard construction contract documents will require participation from the Community Services Group, the City Attorney's office, outside legal counsel, and consultant staff.

#### **4.3. CWA Procedure Development**

If a CWA is implemented, procedures must be developed to facilitate uniform application of the agreement for all covered projects so the City meets its obligations as set forth in the CWA. Development of CWA implementation procedures will require participation from the Community Services Group and consultant staff.

Table 13 presents the estimated costs for CWA negotiation, contract/specification language development, and CWA procedure development.

**Table 13.** Estimated Cost of CWA Implementation

RESOURCE	TASK					
	CWA Negotiation		Contract/Specification Development		CWA Procedure Development	
	Low	High	Low	High	Low	High
Community Services Group	\$ 6,000	\$ 10,000	\$ 5,000	\$ 10,000	\$ 8,000	\$ 15,000
City Attorney	\$ 4,000	\$ 5,000	\$ 2,000	\$ 4,000	\$ -	\$ -
Outside Counsel	\$ 14,000	\$ 28,000	\$ -	\$ -	\$ -	\$ -
Outside Consultant	\$ 8,000	\$ 14,000	\$ 9,000	\$ 13,000	\$ 8,000	\$ 16,000
<b>SUBTOTAL</b>	<b>\$ 32,000</b>	<b>\$ 57,000</b>	<b>\$ 16,000</b>	<b>\$ 27,000</b>	<b>\$ 16,000</b>	<b>\$ 31,000</b>
<b>TOTAL</b>	<b>\$64,000 - \$115,000</b>					

The total cost for CWA implementation is estimated to be between \$64,000 and \$115,000.

#### **4.4. CWA Administration**

CWAs require that the project owner designate a Community Workforce Coordinator to act as the owner's agent and to facilitate implementation and compliance with the CWA. The Community Workforce Coordinator can be a member of the owner's staff, but an outside contractor with specific experience administering CWAs is typically used. In many cases, the Community Workforce Coordinator can also provide labor compliance oversight, a function typically performed by City staff. It is assumed the City will hire an outside consultant to serve as the Community Workforce Coordinator if a CWA is implemented.

CWAs include provisions for the establishment of a Joint Administrative Committee (JAC, Committee) comprised of representatives from the owner and representatives from the building trades. The JAC meets regularly to discuss issues associated with the CWA including project issues, safety concerns, contractor relations, and disputes. The frequency of the JAC meetings is left to the discretion of the Committee, but meetings are typically held on a quarterly basis. It is anticipated that the City's representatives on the JAC will include Community Services Group staff and the City's Community Workforce Coordinator.

The City can require the construction contractor to retain the services of a Jobs Coordinator to assist the contractor in meeting its obligations for targeted worker participation. The Jobs Coordinator coordinates with the construction trades, apprenticeship programs, and local workforce development agencies to identify potential workers that meet the criteria necessary to qualify as a targeted worker for employment on the covered project. The Jobs Coordinator assists the contractor in the preparation of reports including targeted worker hiring status reports and manpower utilization plans. It is anticipated that the contractor will retain the services of an outside consultant to serve as its Jobs Coordinator if the negotiated CWA includes participation requirements for demographics other than local residents.

Staff contacted several consulting firms who specialize in CWA administration and labor compliance to determine the estimated cost for CWA administration. Several factors impact CWA administration costs including project duration, number of subcontractors, familiarity of contractors with CWA requirements, and number of covered projects. Estimated administrative costs range from 0.25% to 5% of total construction cost, with lower percentages for large, multi-year projects and higher percentages for small, short duration projects.

For example, CWA administration costs for the \$110 million SLO Water Plus Project are approximately \$312,000, or 0.3% of the total construction cost. CWA administration costs for a 6-month, \$250,000 project are estimated to be approximately \$12,500, or 5% of the total construction cost. The total cost of CWA administration will ultimately depend on the number, size, and duration of projects covered by the agreement. Notably, much of the administrative work is based on time; the time that the CWA coordinator will need to spend each month reviewing CPRs, compiling local worker numbers, verifying core worker requirements, and coordinating with the construction contractors and construction trades.

## **5. Recommendations and Alternatives**

The extensive stakeholder outreach process provided valuable insight into the practical considerations of CWA implementation, including potential impacts to the local contracting and consulting community. Review of the City's past CIP projects helped quantify historical local worker participation and helped identify opportunities to support local worker participation on future City projects. The stakeholder outreach process and historical CIP review informed staff's recommendation and the alternatives presented in the following sections. Section 5 includes staff's recommendation for CWA-covered projects as well as alternatives for implementation based upon project budget thresholds. Section 6 includes recommended exclusions based upon type of work.

### **5.1. Recommendation – CWA for Legacy Projects**

***As funded and approved for construction, authorize staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include the Cultural Arts District Parking Structure (vertical construction component only), Prado Road Interchange, and Public Safety Center projects, including a 60% local worker participation goal and excluding<sup>3</sup> prevailing wage services provided through professional services agreements.***

Staff recommends Council consider implementing a CWA for the Cultural Arts District Parking Structure (vertical construction and off-site improvements contract only<sup>4</sup>), Prado Road Interchange, and Public Safety Center projects. The total construction cost of these “legacy projects” is estimated to be approximately \$153 million, or 46% of the City’s total CIP budget over the next five years. These projects are large, complex, multi-year efforts involving multiple construction trades that would realize the greatest benefit from the uniform work conditions, dispute resolution procedures, and work stoppage protections afforded by a CWA. The Cultural Arts District Parking Structure is scheduled to begin vertical construction in Fall 2023 with a two-year construction timeframe, and both the Prado Interchange and Public Safety Center are in preliminary design stages and scheduled to begin construction in FY25/26 with multi-year construction timeframes.

These projects are also likely to be awarded to non-local contractors, as few local contractors have the requisite experience and bonding capacity to undertake the work. As noted in previous sections of the report, non-local contractors are more likely to employ non-local workers, and a CWA could promote local worker participation on these large City projects.

Limiting the CWA to legacy projects would reduce CWA implementation costs as compared to a CWA that applied more broadly to City public projects. CWA administration as a percentage of construction cost for these large budget, multi-year projects is estimated to be less than CWA administration costs as a percentage of construction cost for numerous, smaller budget projects. In addition, City staff time to implement CWA requirements on covered projects would be reduced.

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<sup>3</sup> See Section 6 for discussion of recommended exclusions. These may be considered as negotiating parameters within each project budget threshold.

<sup>4</sup> The Cultural Arts District Parking Structure Project is separated into three contracts: 1) Phase 1A PG&E Utility Relocation 2) Phase 1B On-Site Demolition, Clearing, and Grading and 3) Phase 2 Vertical Structure and Offsite Improvements. Phase 1A and 1B include work similar to asset maintenance and replacement projects (utility relocations, demolition, grading, etc.) and are anticipated to be competitive projects for bidding amongst local contractors utilizing local workers.

### 5.2. Alternative 1 – CWA with \$15 Million Threshold

**Authorize Staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include projects with an estimated construction cost of \$15 million or greater, including a 60% local worker participation goal and excluding<sup>5</sup> emergency projects and prevailing wage services provided through professional services agreements.**

As an alternative, Council could consider implementing a CWA for all City projects with an estimated construction cost of \$15 million or greater. A \$15 million cost threshold would include the three legacy projects described in the preceding section and the Prado Road Bridge and Road Widening Project (Prado Road Bridge Project). Table 14 presents the public projects in the City's 5-year CIP grouped by cost category.

**Table 14.** Public Projects in City 5-Year CIP Grouped by Cost

No.	Project Cost	Number of Projects	Total Budget	Percent of 5-Year CIP
1	≤ \$250K	139	\$20,413,161	6%
2	\$250K - \$1M	54	\$37,096,965	12%
3	\$1M - \$5M	26	\$66,404,147	21%
4	\$5M - \$15M	2	\$12,450,000	4%
5	>\$15M	4	\$184,061,231	57%
6	TOTAL	226	\$320,425,504	100%

Staff does not recommend this alternative as including the Prado Road Bridge Project in the CWA would likely result in reduced project participation by local contractors who have successfully constructed similar City projects in the past, and by extension, reduce local worker participation. Similar projects constructed by local contractors include Marsh Street Bridge Replacement and the Orcutt Tank Farm Roundabout.

<sup>5</sup> See Section 6 for discussion of recommended exclusions. These may be considered as negotiating parameters within each project budget threshold.

### **5.3. Alternative 2 – CWA with \$5 Million Threshold**

***Authorize Staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include projects with an estimated construction cost of \$5 million or greater, including a 60% local worker participation goal and excluding<sup>6</sup> maintenance and rehabilitation projects, emergency projects, and prevailing wage services provided through professional services agreements.***

Council could also consider implementing a CWA for all City projects with an estimated construction cost of \$5 million or greater. A \$5 million cost threshold would include the four projects described in the preceding sections along with the Mission Plaza Primary Plaza Area Improvements and the WRRF and Wastewater Collections Shop Project.

Staff does not recommend this alternative due to the lack of historical local worker participation data for projects with construction costs between \$5 million and \$15 million. It is unclear if local worker participation for projects in this cost range will be low and whether local worker participation would increase with a CWA. Average local worker participation for projects reviewed by staff in the \$1 million to \$5 million cost range was 98%, and 69% of all labor hours on the \$16 million LOVR Project were performed by local workers. Staff anticipates that projects in the \$5 million to \$15 million cost range, including the Prado Road Bridge Project, are likely to be bid by local contractors who have historically used high percentages of local workers. Local contractors are expected to be less likely to pursue City projects if covered by a CWA.

If Council moves forward with an alternative to the staff recommendation, a \$15 million threshold (i.e., Alternative 1) would be more appropriate to help ensure local contractor participation on City projects valued between \$5 million and \$15 million. At Council's direction, staff can track labor hours on projects with construction costs of \$5 million or more and return to Council with an analysis of local work hours and recommendations for the possible expansion of CWA coverage. Such an approach would give staff the opportunity to establish baseline local worker participation statistics and identify opportunities to enhance local worker participation where appropriate.

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<sup>6</sup> See Section 6 for discussion of recommended exclusions. These may be considered as negotiating parameters within each project budget threshold.



#### **5.4. Alternative 3 – No CWA**

##### ***Direct staff not to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council.***

Council could consider not implementing a CWA on future public projects. Staff does not recommend this alternative as the three legacy projects recommended for inclusion in a CWA and these projects are likely to be constructed by non-local contractors, which have historically used more non-local workers based on staff's review of past public projects. A CWA could promote local worker participation on these legacy projects which comprise 46%, or \$153 million, of the City's CIP budget over the next five years.

If Council does choose this alternative, staff recommend ongoing tracking of local contractor participation on capital projects as well as ongoing analysis of local labor usage on awarded contracts, which would result in data collection equivalent to Section 3 of this report. This accumulated data could be shared with Council in conjunction with Budget Supplement as a Key Performance Indicator.

## **6. Negotiating Parameters**

Staff recommends Council consider the following negotiating parameters if staff is directed to proceed with CWA implementation, regardless of the recommendation or alternative selected.

### **6.1. Professional Services**

Staff recommends that all prevailing wage services procured through professional services agreements, including inspection, land surveying, and materials testing be excluded from coverage by a CWA. As is the case with most agreements, the City must maintain its authority over quality, budget and schedule (QA/QC) and professional services are often the mechanism by which the City ensures that these essential key elements are satisfied.

As such, Staff recommends that all prevailing wage services procured through professional services agreements, including inspection, land surveying, and materials testing be excluded from coverage by a CWA, regardless of the recommendation or alternative selected by Council. The City has built trusted relationships with local consulting firms who provide these services, and these partnerships are critical to the successful delivery of the City's CIP. Including professional services in the CWA would impact the City's ability to retain the most qualified firms to perform essential quality assurance and quality control (QA/QC) functions on the City's behalf, jeopardizing the City's ability to ensure projects have been constructed in accordance with the approved plans and specifications.

Local consultants contacted by staff during the stakeholder outreach process raised valid concerns regarding CWA core worker and benefits provisions, which increase consultant cost, risk, and professional liability exposure. If a CWA is implemented, local consultants will be less likely to continue providing prevailing wage services to the City, which would reduce local worker participation rather than increase it.

Exclusion of inspection and materials testing services is consistent with the previously negotiated CWA for the SLO Water Plus Project. Staff is recommending that land surveying also be excluded from coverage by the CWA. Like inspection and materials testing, land surveying is a key QA/QC function that is best performed by a firm with experienced staff procured by the City through a competitive process.

### ***6.2. Emergency Projects***

Staff recommends emergency repair projects be excluded from the scope of the agreement if a cost threshold is established for CWA coverage. The City must preserve its ability to procure construction services as quickly as possible in the event of an emergency without additional administrative requirements, in accordance with the existing emergency purchasing policy in the Financial Management Manual. The additional time required to administer and enforce CWA requirements on emergency projects would compromise the City's ability to respond to emergencies as efficiently and cost effectively as possible. Staff recommends emergency repair projects be excluded from the scope of the agreement regardless of the construction cost threshold.

### ***6.3. Maintenance and Repair Projects (Projects <\$15 million)***

Staff recommends Maintenance and Repair projects be excluded from the scope of the agreement if a cost threshold less than \$15 million is established for CWA coverage (i.e., Alternative 2). Contractors located in the City constructed 50% of the Maintenance and Repair projects advertised by the City during the January 2018 to September 2021 period reviewed by staff. Of the 11 past CIP projects reviewed in detail by staff, 95% of all labor hours were performed by local workers. Maintenance and rehabilitation projects are routinely constructed by local contractors using local workers and a CWA is unlikely to increase local worker participation for these types of projects.

In addition, rehabilitation projects such as street resurfacing and wastewater collection system lining are often performed by specialty contractors who rely heavily on their core workforce to perform their work efficiently and effectively.

#### **6.4. Local Worker Participation Goal**

If Council decides to implement a CWA, staff recommends a minimum local worker participation goal of 60% be established. Review of local worker participation on a representative sample of recent City projects indicates 90% of all labor hours were performed by local workers. Of the cost categories reviewed, the lowest local worker participation percentage was for projects with a cost between \$250,000 and \$1 million, where 73% of all labor hours were performed by local workers. Historical local worker participation percentages for projects of all types and sizes is well above the 30% local worker participation goal typically set forth in CWAs and included in the SLO Water Plus CWA. The local worker participation goal should be established such that implementation of a CWA supports the continued employment of local workers, consistent with historical employment of local workers on City projects. This goal should be achievable based on the local work hours measured for the SLO Water Plus Project and historical local worker participation on City projects.

#### **Previous Council or Advisory Body Action**

Council adopted the FY21/23 Financial Plan at the June 1, 2021, meeting. Included within the programs and projects identified within Major City Goal (MCG) of Economic Recovery, Resiliency, and Fiscal Sustainability was a task/action with Strategic Approach #1.1f, which stated:

*"Hire a consultant, support legal review, and establish an internal working group and hire a consultant to research methods to support local contractors, local vendors, and labor through workforce agreements, local purchasing requirements, alternative project delivery methods, and other options to support local businesses and employees. The Community Services Group will be leading this effort".*

A Study Session was held in September 2021 to present strategies identified by staff to support the local economy and to receive feedback from Council on the work program. The Study Session included a guided discussion with a series of questions intended to determine Council's preferred strategies and implementation priorities, and to inform the subsequent phases of the work program. Reference the Background section of the report for additional information.

#### **Policy Context**

There are no existing policies in place for Community Workforce Agreements. The recommendations and alternatives of this report provide a policy framework for Council consideration.

#### **Public Engagement**

Public engagement/stakeholder outreach discussed in body of report.

## **CONCURRENCE**

The Administration Department, City Attorney, 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.

## **NEXT STEPS**

If directed by Council, staff will initiate CWA negotiations with the Trades Council in accordance with the negotiating parameters established by Council. The City Attorney has retained the services of outside legal counsel to assist with negotiations. If staff and the Trades Council are able to reach an agreement, the negotiated CWA will be provided to Council for review and approval. If an agreement with the Trades Council cannot be reached, staff will return to Council for further direction.

Once the CWA has been adopted, staff will procure the services of a Community Workforce Coordinator to facilitate implementation and administration of the agreement. Public Works staff will coordinate with the City Attorney’s office to develop construction contract provisions and specifications describing CWA requirements. Public Works staff will develop internal procedures to be used by City staff to help ensure uniform application of CWA requirements on all covered projects.

As noted previously, use of alternative project delivery methods and local purchasing policies can also provide the opportunity for the City to make progress on the MCG of Economic Recovery, Resiliency & Fiscal Sustainability. Updates on both strategies are as follows:

1. Staff is currently considering alternative project delivery methods as a part of the broader Capital Improvement Process effort. With the exception of certain energy saving projects, use of anything other than the design-bid-build methods requires amendment to both the municipal code and City Charter. During the Study Session in September 2021, the Council indicated general support for the use of alternative project delivery methods but expressed a desire for more analysis of the pros and cons of the alternatives. Due to the need for additional Council follow-up and the time that it takes to prepare a successful ballot measure for Charter amendment, staff is tentatively planning to work towards a ballot measure during the November 2024 statewide general election to allow for the use of alternative delivery methods, pending additional analysis and direction from Council.
2. On May 17<sup>th</sup>, the Finance Department will bring forward an item to seek Council’s consideration of policy updates that would broaden local vendor preferences for City purchases.

**FISCAL IMPACT**

Budgeted: Yes

Budget Year: 2021-22

Funding Identified: Yes

**Fiscal Analysis:**

<b>Funding Sources</b>	<b>Total Available</b>	<b>Budget</b>	<b>Current Funding Request</b>	<b>Remaining Balance</b>	<b>Annual Ongoing Cost</b>
General Fund	\$	105,000	\$	\$70,000	\$
Water Fund	\$	26,250		22,500	
Sewer Fund	\$	26,250		22,500	
Parking Fund	\$	17,500		15,000	
<b>Total</b>	<b>\$</b>	<b>175,000</b>	<b>\$</b>	<b>\$130,000</b>	<b>\$</b>

The appropriated budget for FY2021-22 allocated \$175,000 in operating budget to hire necessary consultant support for this ongoing effort, with costs proportionally shared between the General Fund and three enterprise funds – Water, Sewer, and Parking. Currently, \$45,000 has been obligated for consultant support of this work effort including legal services consisting of CWA contract negotiation support, with a remaining budget of \$130,000. In the near term, remaining budget may be utilized for implementation of the Council preferred action, including work to develop procedures for implementation of CWAs on covered projects. The costs of implementation in the long term, which include consultant support for CWA contract oversight during project construction, would be applied to the covered Capital Projects and be incorporated into the project construction budget.

**ALTERNATIVES**

***These alternatives are discussed extensively above in the body of the report.***

1. Authorize Staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include projects with an estimated construction cost of \$15 million or greater, including a 60% local worker participation goal and excluding emergency projects and prevailing wage services provided through professional services agreements.
2. Authorize Staff to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council to include projects with an estimated construction cost of \$5 million or greater, including a 60% local worker participation goal and excluding rehabilitation projects, emergency projects, and prevailing wage services provided through professional services agreements.
3. Direct staff not to negotiate a Community Workforce Agreement with the Tri-Counties Building and Construction Trades Council.

**ATTACHMENTS**

- A – City Capital Improvement Program CWA Evaluation
- B – CWA Frequently Asked Questions Document
- C – Public Works Prevailing Wage and Fringe Benefit Summary