



Council Agenda Report

Item 7c

Department: Public Works
Cost Center: 5001
For Agenda of: 7/19/2022
Placement: Business
Estimated Time: 30 minutes

FROM: Matt Horn, Public Works Director

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

SUBJECT: DIRECTION ON TERMS OF A COMMUNITY WORKFORCE AGREEMENT

RECOMMENDATION

1. Based on the substantive differences, on three issues of significance, and the time constraints surrounding the bidding and contracting associated with the Cultural Arts District Parking Structure, acknowledge that a Community Workforce Agreement "CWA" shall not apply to the Cultural Arts District Parking Structure¹; and
2. Direct staff to continue to dialogue with the Trades for the Prado Road Interchange and Public Safety Center projects to determine if progress can be made on the open issues.

POLICY CONTEXT

Consistent with the Council's adopted 2021-23 Major City Goal of Economic Recovery, Resiliency, and Fiscal Sustainability work program, and a Study Session held in September 2021, on April 19, 2022², Council authorized staff to negotiate a Community Work Force Agreement (CWA) with the Tri-Counties Building and Construction Trades Council (the Trades Council). Council specifically directed staff to include the Cultural Arts District Parking Structure, 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. Lastly, Council provided staff with a time frame to complete these negotiations given the bidding and contracting for the Cultural Arts District Parking Structure project.

DISCUSSION

Background

As identified in the Major City Goal Work program for Economic Recovery, a method to support local contractors, local vendors, and local labor in public projects is through community workforce agreements (CWAs). CWAs are collective bargaining agreements

¹ If the parties can come to terms with the three outstanding issues prior to the Council Meeting this recommendation would be to enter into a CWA.

² Community Workforce Agreements: Phase 2 Data Analysis, Outreach, and Draft Policy Development: <https://pub-slocity.escribemeetings.com/filestream.ashx?DocumentId=3424>

between a project owner (the City), contractors, and building and construction trade unions. Using the direction received in April, staff reached out to the Tri-Counties Building and Construction Trades Council (Trades Council) with whom the City has an existing CWA for the SLO Water Plus Project (a.k.a. the WRRF – Water Resources Recovery Facility) to negotiate a CWA consistent with the direction provided by Council.

In addition to concurring with the presented April 19th recommendations, Council also provided further direction as follows:

1. The deadline to reach an agreement with Tri-Counties Building and Construction Trades Council is July 19, 2022 for the three legacy projects;
2. Staff should revisit CIP projects that could benefit from a CWA with each 2-year Financial Plan;
3. Staff should continue to track use of local workers in all CIP projects as part of key performance indicators;
4. Staff should revisit the continued use of CWAs after bidding of last legacy project; and
5. Staff should ensure the trades and businesses continue to coordinate with Cal Poly, Cuesta, Hancock and high schools for workforce development.

As indicated in April, staff would initiate negotiations with the Trades Council and if able to reach an agreement, a CWA would be provided to Council for review and approval; and if not able to reach an agreement, staff would return to Council for further direction.

Negotiation Status and Time Constraint Previously Identified

As of the writing of this Agenda Report, the City and Trades Council have exchanged documents including best and last offers. There are several items open at this time and agreement has not been reached (those open items are discussed below). The City's proposed agreement is Attachment A and the Trades Council's is Attachment B.

As directed by Council, July 19th was the deadline for negotiation completion due to time constraints for the CWA apply to the Cultural Arts Parking District Parking Structure. The RFP for Construction Management and Inspection services for both Phase 1B and Phase 2 of the parking structure project was authorized for advertisement at the June 21, 2022³ Council meeting. The RFP was developed based upon Council action at the April 19th meeting which excluded professional services from the terms of the CWA. Staff have delayed release of the RFP due to Issue #1 in the below section. Furthermore, final construction specifications, including specifications for CWA implementation, must be developed by September 2022 to remain on schedule for design phase delivery of Phase 2.

³ Cultural Arts District Parking Structure and Parking Structure Maintenance and Rehabilitation Projects: <https://pub-slocity.escribemeetings.com/filestream.ashx?DocumentId=4739>

Negotiation Position Differences and Staff Recommendations

The following sections detail the CWA provisions for which the City and Trades Council have been unable to reach agreement.

Issue #1: Inspection, Testing, and Surveying Services Choice

The City procures inspection, testing, and surveying services through professional services agreements to support delivery of the City's CIP. These services are critical quality assurance and quality control (QA/QC) functions that help ensure the City maintains control over project quality, budget, and schedule. 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 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. It is important to note that inspection and testing services were expressly excluded from the scope of the SLO Water Plus CWA, which is being used as a template for the current CWA under consideration.

The Trades Council would like to include inspection, testing, and surveying services in the agreement as these are prevailing wage services and the crafts who perform this work are represented by the Operating Engineers Union, a member of the Trades Council. Excluding certain crafts from coverage by the agreement is not acceptable to the Trades Council's membership. In the negotiation meeting held on June 23rd, the Trades Council indicated there were local firms who provide these services and who would be willing to sign onto the agreement. As of the writing of this report, this information has not been provided.

Staff Recommendation: Staff continues to recommend choice for inspection, testing, and survey services procured through professional services agreements be exempt from the scope of the CWA. Including these services in the scope of the agreement would limit participation by local consultants (and by extension, local workers), reduce competition, increase project costs, and compromise the City's ability to make a qualifications-based selection when procuring these services.

Issue #2: Local Worker Participation Goal

Staff proposed a 60% local worker participation goal based on historical local worker participation percentages from past City CIP projects. A review of fourteen CIP projects of varying types and costs completed between January 2018 and September 2021 indicated 90% of all labor hours were performed by local workers. While detailed local worker participation data is not available for projects of the size being considered for inclusion in the CWA (i.e., greater than \$40M), staff believes that a 60% local worker participation goal is achievable and consistent with Council's primary objective of prioritizing employment of local workers.

The Trades Council has proposed a 50% local worker participation goal. The Trades Council has not elaborated on the reason for this.

Staff Recommendation: Staff recommends the 60% local worker participation goal be preserved in the agreement. Local worker participation on City public projects has historically been high, and the goal should be set such that local worker participation with a CWA in place is higher than what it would otherwise be. The 60% local worker participation goal is also consistent with Council's primary objective of prioritizing employment of local workers. If the goal is not met, the CWA includes provisions for the parties to meet and confer regarding potential changes to the agreement that could be implemented to help achieve the participation goal. Staff believes this collaborative approach should help mitigate the Trades Council's concerns with the higher local worker participation goal.

Issue 3#: Agreement Term

The draft CWA initially proposed by the Trades Council included a five-year term. The bid advertisement for one of the three projects being considered for inclusion in the CWA – the Public Safety Center Project – may be issued beyond the five-year term. The Trades Council has proposed language that would extend CWA coverage to all listed projects even if the projects are bid and awarded after the five-year term.

Staff Recommendation: Staff recommends the five-year term language be preserved, with no exception for projects listed in the agreement that are bid and awarded after expiration of the term. This would allow the City to evaluate covered project performance, including local worker participation, prior to renewing the agreement or including additional projects in the scope of the agreement. Lessons learned from the first projects delivered using the CWA could be leveraged to modify the agreement and improve outcomes for future covered projects.

Public Engagement

Extensive public engagement and stakeholder outreach was performed in winter 2021/22 and spring 2022 as part of the CWA evaluation that culminated with the April 19th City Council Meeting and [Council Agenda Report](#). 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 surveyed to determine the potential impacts associated with extending CWA requirements to these services. This stakeholder outreach informed the staff recommendation approved by Council and used as the basis for negotiations with the Trades Council.

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.

FISCAL IMPACT

Budgeted: Yes

Budget Year: 2021-22

Funding Identified: Yes

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$105,000		\$42,607	
Water Fund	\$26,250		\$15,652	
Sewer Fund	\$26,250		\$15,652	
Parking Fund	\$17,500		\$10,435	
Total:	\$175,000		\$130,000	

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. To date, \$45,000 has been expended to cover consultant cost. Budget has been reserved for implementation of the CWA based upon Council’s 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

Direct Staff to continue negotiations for application of a CWA to the Cultural Arts District Parking Structure. This alternative is not recommended as the project is nearing design phase completion, which includes finalization of the construction contract documents. The project is currently on schedule and further negotiation presents risk for administrative delays in acquiring construction phase consultant services and finalization of construction contract documents for project advertisement.

ATTACHMENTS

A – City Proposed Community Workforce Agreement

B – Tri-Counties Building and Construction Trades Council Proposed Community Workforce Agreement