



**DATE:** April 19, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt Resolutions Approving an Extension of the Citywide Community Workforce Agreement with the Building and Construction Trades Council of Alameda County to December 6, 2022 and Authorizing the City Manager to Execute an Amendment to the Agreement with Workforce Integrity and Training Solutions for Labor Compliance Coordination Services by \$100,000 for a Total Not-to-Exceed Amount of \$172,000

#### **RECOMMENDATION**

That Council adopts 1) a resolution (Attachment II) authorizing the City Manager to execute an extension to the Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC) to December 6, 2022, and 2) a resolution (Attachment III) authorizing the City Manager to execute an amendment to the agreement with Workforce Integrity and Training Solutions (WITS) by increasing the agreement amount by \$100,000 for a total not-to-exceed amount of \$172,000.

#### **SUMMARY**

Staff is recommending Council approve an extension of the existing CWA with the BTC through December 6, 2022 to provide time for Council to provide input on a new agreement and subsequent negotiations with the BTC. Staff is also recommending that Council approve an amendment to the agreement with WITS by increasing the amount by \$100,000, for continued labor compliance coordination services and other efforts related to administering the CWA.

#### **BACKGROUND**

Over the years, CWAs have been utilized in the construction industry to assure that labor issues related to major construction projects are minimized and to help accomplish local hiring and apprenticeship goals. CWAs are a type of collective pre-hire bargaining agreement between project managers or owners and organized labor that outline a variety of employment and other working conditions with the express purpose of providing peaceful settlement of labor disputes and grievances without work stoppages, strikes, or lockouts; thereby allowing for the timely and cost-effective completion of projects. It is noteworthy that

there has never been a work stoppage or strike on any City projects in recent history.

In April 2015, Council directed staff to negotiate and execute a CWA with the BTC for the new main library. That agreement includes the following types of provisions:

- Requires that the contractor and subcontractors on the project use local union hiring halls to hire trades workers for the projects;
- “Local Hire” provisions, encouraging the contractor to employ Hayward residents or Hayward Unified School District graduates;
- Requires that all hired workers pay union dues and receive other benefit trust fund contributions;
- Management rights regarding employment procedures, including hiring, discipline, etc.;
- Grievance and arbitration procedures to allow for timely resolution of disputes;
- Standardized work rules and regulations; and
- Provisions governing requirements around apprenticeships.

At Council’s direction, staff brought forward an item on February 23, 2016 that allowed for the discussion of creating a “Citywide” CWA that could apply to a broader scope of projects within the community. Staff received policy direction from Council at that meeting regarding how a Citywide CWA might be structured. Subsequently, staff negotiated a CWA with the BTC, which included an effective date of July 6, 2017. Below is a summary of the key elements of the final negotiated CWA:

- 1) The Citywide CWA only applies to City projects where the construction cost of the project exceeds one million dollars (\$1,000,000) based on the Engineer’s Estimate.
- 2) The Citywide CWA does not apply to private development projects or to projects awarded/managed by another third-party public agency where the City has contributed funding.
- 3) The City retains the ability to exempt certain specialty or unique projects from the CWA requirements as needed and upon approval by Council. Staff and the BTC would first meet in good faith to discuss the exemption. However, if the parties fail to reach a consensus, staff would be able to bring the project to Council for review and consideration.
- 4) During the duration of the Projects, the Union(s) and its members, agents, representatives and employees shall not incite, encourage, condone, or participate in any strike, walkout, slowdown, sit-down, stay-in, boycott, wobble, sympathy strike, picketing or other work stoppage or handbilling of any nature whatsoever, for any cause whatsoever (including jurisdictional disputes), and it is expressly agreed that any such action is a violation of the agreement.

5) A Joint Administrative Committee (JAC) comprised of two City representatives, two Union representatives, and one construction industry representative was established to review the implementation of the agreement and the progress of the projects. The JAC has the responsibility of monitoring the local hire and apprentice provisions of the agreement.

6) The agreement contains a goal that Hayward residents, and especially HUSD graduates, will perform a minimum of thirty (30%) percent of the hours worked on a craft-by-craft basis on the covered projects. Contractors shall make good faith efforts to reach the Local Hire Goal through the utilization of the Union's hiring hall procedures. The Unions shall make good faith efforts in their recruiting and training of Hayward Resident workers and in their hiring hall procedures to facilitate the Local Hire Goal on the Projects. The parties shall cooperate to establish or support a pre-apprenticeship/internship program for HUSD graduates. If a Contractor fails to meet the Local Hire Goal or demonstrate a good faith effort, there will be a ten (10%) percent contract retention withheld until the Local Hire Goal is remedied. Acceptable remedies include commitment to employ Hayward residents on non-City projects or acceptance of Hayward residents as new apprentices.

Contractors will be required under the agreement to hire one Hayward resident as a New Apprentice for the first one million dollars (\$1,000,000) of construction costs with one additional apprentice for every \$5 million dollars (\$5,000,000) thereafter and with an assignment of a maximum of two New Apprentices to any one craft. A minimum of 50% of the applicable Apprentice hours on any project must be worked by the Hayward New Apprentice.

The BTC has also agreed to facilitate and encourage enrollment of least ten (10) Hayward residents or HUSD graduates into State approved Labor-Management Apprenticeship programs during each year of the agreement term and facilitate placing them on a job site.

## **DISCUSSION**

The City's CWA with the BTC expired on July 6, 2020, three years from the original effective date. On January 26, 2021, Council approved a one-year extension plus a six-month extension to December 6, 2021. Staff continued to implement the terms of the expired CWA between December 2021 to the present date. Staff is requesting that Council approve an extension of the CWA to December 6, 2022 to allow time for City staff and the BTC to discuss any modifications and potentially draft a new CWA for Council's review and feedback. This extension will also allow time for staff to prepare an analysis of the current CWA, which would be presented to Council at a work session prior to negotiating a successor CWA. This work session would also provide Council with an opportunity for input into the terms of the successor CWA. Staff would subsequently incorporate Council's comments and direction and return with a new CWA for consideration.

Administration of the CWA requires staff resources. Staff's concern related to the CWA is the administrative burden on City project managers for implementing and monitoring the agreement. A staff position was created to implement and monitor the CWA; however, the

staff position is vacant. A RFP was solicited for CWA administration. An agreement in the amount of \$72,000 with WITS was entered in 2020. WITS is experienced in this area and has administered three major projects – Fire Station 6/Fire Training Center, the Water Pollution Control Facility Headworks Rehabilitation, and FY21 Pavement Rehabilitation. WITS will continue administration of the CWA through the completion of these projects and any new projects that are subject to the CWA. Staff recommends an amendment to the agreement with WITS to increase the amount by \$100,000 for continued services with labor compliance coordination and other efforts related to administering the CWA.

## **Environmental Review**

Staff has determined that this action is statutorily exempt from environmental analysis under the California Environmental Quality Act (CEQA) for the reason that it is not a project. CEQA Guidelines, Section 15378(b)(5), states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." CEQA review will be completed separately for individual Public Works' projects subject to the Citywide CWA.

## **ECONOMIC AND FISCAL IMPACT**

There has been much debate over the years regarding the fiscal impacts of CWAs and potential benefits (i.e., smoother management/labor relationships, increased local hiring, and improved pay and benefits to workers over and above that of a prevailing wage job). Prior staff reports to Council have provided detail regarding project cost implications.

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to one of the Council's six Strategic Priorities

## **SUSTAINABILITY FEATURES**

The action taken for this agenda report will not result in physical development, purchase or service, or a new policy or legislation. Any physical work will depend upon future Council action.

## **NEXT STEPS**

If approved, following Council action, the City Manager will prepare and execute the extension of the existing CWA with the BTC and commence discussions with the BTC on a new updated CWA for future Council consideration. Also, if Council approves the resolution to amend the agreement with WITS, staff will route the amendment to be executed by the City Manager, allowing the firm to continue to provide CWA administration services.

*Prepared by:* Dave Hung, Senior Engineer  
Kathy Garcia, Deputy Director of Public Works

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

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Kelly McAdoo, City Manager