



## MEMORANDUM

**TO:** City Council

**FROM:** Matthew Downing, City Manager

**BY:** Bill Robeson, Assistant City Manager/Public Works Director

**SUBJECT:** Community Workforce Agreement for the Traffic Way Bridge Capital Improvement Project

**DATE:** August 27, 2024

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### **RECOMMENDATION:**

Staff recommends that the Council not pursue a Community Workforce Agreement (CWA) to construct the Traffic Way Bridge Project, based in part on limitations under the Project's federal funding.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

Implementation of a CWA would have costs associated with development, negotiations of the agreement, and the costs of retaining a Community Workforce Coordinator as required by the CWA to administer and oversee the agreement on behalf of the City of Arroyo Grande. Other agencies successfully implementing a CWA have budgeted between \$64,000 and \$175,000 for negotiation, drafting, and implementation. It is also estimated that a CWA may cost an additional \$100,000 for the development, implementation, and contract administration necessary for oversight for a CWA for the Traffic Way Bridge Project (the "Project") and take approximately 1 year to develop, negotiate, and implement. Additional cost increases are anticipated if the project is delayed.

### **BACKGROUND:**

On August 13, 2024, the City Council provided direction to staff to provide a staff report regarding the potential of including a CWA as part of the Project. To respond to this direction, staff is providing information regarding CWAs and the Benefits and Costs of CWAs for the Project. Staff had previously inquired whether Highway Bridge Program (HBP) Federal Funding administered by Caltrans for the Project would allow for negotiation of a CWA. Just prior to the report publication deadline, staff was informed the HBP Funding would preclude the City from implementing a CWA restricting the competitive bidding process to local contractors or local hiring requirements on a Federally Funded Project. Therefore, a CWA would not be accepted as part of the Project.

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Nonetheless, staff has provided relevant information regarding CWAs in this report to demonstrate general CWA consideration points.

The Project currently has a complete package of plans, specifications, and estimates ready for City Council authorization on September 10, 2024. This is a significant milestone on the City's largest capital project in memory, which has required mutually agreeable acquisition of Temporary Construction Easements that cross over private properties and provide critical access points and use areas for the project.

**ANALYSIS OF ISSUES:**

Definition and Purpose of a CWA

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 specific projects by targeted workers and demographics, including local residents, apprentices, historically underutilized or underrepresented residents or groups, and veterans. In addition to local hire good-faith effort programs, CWAs, and local hiring mandates can be used to prioritize local worker participation in a specific project.

Specific to the issue of local hiring, CWAs can include provisions prioritizing the referral of local workers to project contractors by union hiring halls and can establish local worker participation goals. Union hiring halls maintain out-of-work lists, and workers are typically dispatched to projects based on the order in which they registered with the hiring hall (i.e., first come, first served), with no consideration given to their place of residence. CWAs are separate and distinct from other local hiring policy efforts and goals as their primary purpose is to establish conditions of employment applicable to all contractors on a specific project or category of projects. CWAs and other local hiring policy efforts and goals are not mutually exclusive, and a CWA is one method that can be used to prioritize employment of local workers.

A best practice in the conceptual stages of a CWA is to conduct stakeholder outreach with unions, contractors, staff, community/business groups, and chambers of commerce before development and potentially incorporate such feedback into the CWA negotiation and drafting process. The outreach process, negotiation, and drafting of a CWA, as well as time for final execution by all parties, can take six months to one year.

Identified Advantages of CWAs

- Ensures Local Employment – CWAs often include provisions prioritizing hiring local residents, which can help boost the local economy by keeping jobs and labor dollars within the community.

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- Promotes Skilled Labor – By requiring workers to be part of a union, CWAs ensure that workers are trained and skilled, which can lead to higher-quality construction and fewer errors or delays.
- Stability and Predictability – These agreements typically prevent strikes, lockouts, and other disruptions, helping ensure that projects are completed on time and within budget.
- Supports Workforce Development – CWAs often include provisions for apprenticeships and training programs, providing opportunities for career development for new workers, particularly from disadvantaged communities.
- Ensures Fair Wages and Benefits – These agreements generally guarantee fair wages, healthcare, and retirement benefits for workers, which can lead to better job satisfaction and lower turnover rates.
- Enhances Safety Standards – Union workers are often consistently trained in safety protocols, which can reduce the number of workplace accidents and injuries.

#### Identified Disadvantages of CWAs

- Increased Costs – Requiring union labor can increase project costs due to higher wages and benefits compared to non-unionized labor. This can translate into more expensive City projects.
- Limits Competition – CWAs may result in non-union contractors declining to bid, reducing the pool of bidders for City projects. This lack of competition can further increase costs and reduce the diversity of businesses that benefit from public contracts.
- Potential for Delays – While CWAs aim to prevent disruptions, the negotiations and implementation of these agreements can lead to delays, particularly if disagreements arise between parties.
- Exclusion of Small and Minority-Owned Businesses – Small and minority-owned businesses that are non-unionized may find it difficult to compete for and administer contracts under CWAs, limiting their potential participation in City projects.
- Criticism from Non-Union Workers – Non-union workers may feel disadvantaged by CWAs, as these agreements often require workers to join a union or pay union dues, which can be a contentious issue.
- Political and Legal Challenges – CWAs can be politically contentious and face legal challenges, especially in regions where there is strong opposition to unions or where non-union contractors are prevalent.
- Conflicting Staffing Requirements – Federally funded projects have Disadvantaged Business Entity (DBE) requirements wherein up to 22% of the project must be performed by listed minority-owned businesses. If the DBE requirement cannot be met, the contractor must demonstrate through significant documentation that a good-faith effort was made to meet the requirement. Adding an additional requirement defining the qualifications of the workforce adds another

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level of complexity and potentially conflicting goals to the project, especially in a rural area such as the Central Coast, where fewer businesses are available to perform the desired work.

In summary, while CWAs can provide benefits regarding local resident hiring and local economic impact, they also come with trade-offs in terms of cost and limitation of competition. Due to our county's location in proximity to larger population areas, staff has noted that local construction companies are most of the bidders for City projects.

Local Agency Experience

Several local agencies have utilized CWAs or local hire good-faith efforts to prioritize the employment of local workers, including the City of San Luis Obispo, South San Luis Obispo County Sanitation District (SSLOCSD), and the City of Santa Barbara. A summary of information related to each of these agencies is presented below.

*City of San Luis Obispo*

In September 2021, San Luis Obispo initiated a work program to advance its Major City Goal of Economic Recovery, Resiliency, and Fiscal Sustainability in response to the COVID-19 pandemic. As part of the work program, the City performed extensive stakeholder outreach and analyzed historical local worker participation in City projects to inform policy on the application of CWAs for future public works projects. City of San Luis Obispo staff analyzed 14 representative projects constructed without CWAs between January 2018 and September 2021 and found that 90% of all labor hours were performed by "local workers," defined as residents of San Luis Obispo, Santa Barbara, Monterey, or Ventura Counties. In consideration of the historically high local worker participation percentages on past projects without a CWA in place, the City decided to limit the application of a CWA to three large upcoming capital improvement projects: the Cultural Arts District Parking Structure (vertical construction component only), Prado Road Interchange, and the Public Safety Center Project. A City of San Luis Obispo Council agenda report detailing the City's CWA analysis and stakeholder outreach process is included as Attachment 1.

As a result of this extensive analysis and development of a CWA program, the City of San Luis Obispo entered into a CWA with the Tri Counties Building and Construction Trades Council. The Trades Council represents several unions in Ventura, Santa Barbara, and San Luis Obispo Counties. This CWA was for the Water Resource Recovery Facility (WRRF) Upgrade Project, a significant resource recovery and facility upgrade, in December 2018 with a project cost of about \$60 million. The CWA included a local worker participation goal of 30%. "Local workers" were defined as residents of San Luis Obispo, Santa Barbara, Monterey, and Ventura Counties. As of March 2023, approximately 83% of all labor hours were performed by local workers.

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*SSLOCSD*

SSLOCSD entered into a CWA with the Tri Counties Building and Construction Trades Council in August 2019 for their Wastewater Treatment Plant Redundancy Project. This project is very similar to the City of San Luis Obispo's wastewater project described above. The CWA included a local worker participation goal of 30%. "Local workers" were defined as residents in the SSLOCSD service area, or residents of San Luis Obispo, Santa Barbara, Monterey, and Ventura Counties. As of December 2022, approximately 62% of all labor hours were performed by local workers. Because of the similarity in project type and scope and because SSLOCSD is a single focus entity that does not manage multiple projects at once, the CWA was developed in about a 2-month time frame.

*The City of Santa Barbara*

The City of Santa Barbara finalized a CWA with the Trades Council in July 2021 for all projects with estimated construction costs of \$5 million or greater. The City reviewed certified payroll reports from past public works projects and discovered a relatively high participation rate from local workers on projects with a construction cost of \$5 million or more (55-60%). The City ultimately included a 50% local worker participation goal in the final CWA.

Negotiations between the City of Santa Barbara and the Council centered around local worker participation goals, core worker hiring procedures, the maximum number of core workers allowed, exemption from union trust contribution requirements for local contractors, and exclusion of construction inspection and quality assurance from the scope of the agreement.

**ALTERNATIVES:**

The following alternatives are provided for the City Council's consideration:

1. Do not pursue a CWA for the Traffic Way Bridge project; or
2. Provide other direction to staff.

**ADVANTAGES:**

CWAs can provide significant benefits regarding local hiring and positive local economic impacts. However, per Caltrans requirements, a project with HBP funding cannot have an associated CWA.

**DISADVANTAGES:**

CWAs can have considerable trade-offs in terms of cost and competition, and specifically, implementing a CWA for the Traffic Way Bridge project would jeopardize it and/or drive up the costs significantly due to delays and/or loss of federal funding.

**ENVIRONMENTAL REVIEW:**

Consideration of a Community Workforce Agreement for the Traffic Way Bridge Project is not a project subject to the California Environmental Quality Act (“CEQA”) because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378.)

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2.

**ATTACHMENTS:**

1. [April 19, 2022 City of San Luis Obispo Staff Report, Community Workforce Agreement: Phase 2: Data Analysis, Outreach, and Draft Policy Development](#)  
(provided as hyperlink only)