



COUNCIL AGENDA: 4/03/2018
ITEM: 3.3 (18-447)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: March 22, 2018

SUBJECT: Private Development Workforce Standards/Community Workforce Agreements on Public Project.

RECOMMENDATION:

As recommended by the Rules and Open Government Committee on March 21, 2018, Council discussion and direction to staff on Private Development Workforce Standards, Capital Bond Measure, Best-Value Contracting, and Community Workforce Agreements as described in the memorandum.

[Rules Committee referral 3/21/18 - Item G.7]



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Mayor Sam Liccardo

**SUBJECT: PRIVATE DEVELOPMENT
WORKFORCE STANDARDS/COMMUNITY
WORKFORCE AGREEMENTS ON PUBLIC
PROJECTS**

DATE: March 16, 2018

Approved

Date

3-16-18

RECOMMENDATION

Approve a request to agendize for Council deliberation at the March 27, 2018 City Council meeting, the following:

1. **Private Development Workforce Standards:** Direct the City Manager and City Attorney to draft an ordinance requiring specific workforce standards for construction employment on private development projects, in those circumstances where the City is subsidizing the project. Those workforce standards will include provisions mandating prevailing wage, as well as goals and process requirements for apprentice ratios, the hiring of local workers, and targeted hiring from underrepresented subpopulations. City action may trigger such requirements where it commits a subsidy of land or money, or in narrow circumstances, where it grants a fee or tax reduction for reasons other than those fee reductions necessary to make a subcategory of projects financially viable. Investments by the City for such purposes as affordable, rent-restricted housing, or for nearby, public-serving infrastructure (e.g., traffic signals or off-ramps) will not trigger such requirements.
2. **Capital Bond Measure:** Direct the City Manager to identify a set of the highest-priority capital projects that the Council should consider placing before the voters as a bond measure during the November, 2018 election. Until better informed by polling and project evaluation, the bond measure should target an aggregate project valuation of \$300 million. The City Manager shall further include such a measure in City-funded polling conducted this Spring, and return to Council in late May with a preliminary proposed list of such projects for discussion and public review.

3. **Best-Value Contracting**: Direct the City Manager and City Attorney to review Charter provisions that mandate “lowest-cost bidder,” and evaluate what language would best supplant that mandate to enable the City to have better flexibility to avoid hiring poor-performing contractors on city capital projects, similar to other California cities. The City Manager shall further include in City-funded polling this Spring, the testing of a measure required to extract “lowest-cost bidder” requirements from the City Charter.
4. **Community Workforce Agreements**: Direct the City Manager and City Attorney to negotiate with all affected labor unions a Community Workforce Agreement to apply to City-funded capital contracts greater than \$3 million—increasing annually with CPI—but excluding all City Capital Maintenance Projects, which typically involve maintenance work, such as street repaving.

BACKGROUND

Since the submittal of a proposed “Build Better San Jose” Initiative, I have engaged in discussions and formal negotiations with several business and labor leaders to find a compromise that would support good wages and ensure high-paying jobs without stifling housing production and job creation in the city of San Jose. Through several weeks of negotiations, we have emerged with a verbal agreement on a proposed settlement with representatives of South Bay Labor Council, Working Partnerships USA, the Santa Clara-San Benito Counties Building Trades, and the Mechanical, Electrical, Plumbing, and Sprinkler Fitters (MEPS) unions. I thank them for working earnestly to find a satisfactory solution, and one that incorporates the following elements:

1. **Local Hiring and Prevailing Wage Requirements on Private Development**: In those circumstances in which private development is subsidized by the City of San Jose— particularly where there is a direct contribution of land or public money to any private project above a minimum threshold of valuation— additional workforce standards on the construction of the project will apply. Those standards will include mandates for hiring construction workers locally, targeted hiring of apprentices, and paying prevailing wage. More specific details about the elements of those provisions will be attached to this memorandum in the days ahead as supplemental Exhibit A.
2. **Gross Receipts Tax**: Given the compromise, the parties understand and agree that there will be no need for the proceeds from a Gross Receipts Tax to be utilized to subsidize private development workforce standards. Therefore, the parties have agreed that neither they nor their agents will bring any proposal for a Gross Receipts Tax for voter approval during the period in which the ordinances discussed will be in full force and effect.
3. **Prevailing Wage and Local Hire Mandates**: The parties have agreed that neither they nor their agents will bring a proposal to impose “prevailing wage” or “local hire” requirements on private development to the ballot for voter approval during the period in which the ordinance discussed will be in full force and effect.

4. **Community Workforce Agreements:** On City-funded capital construction projects, other than City Capital Maintenance Projects, Community Workforce Agreements shall apply wherever the valuation of the construction project exceeds \$3 million. Each year, the \$3 million threshold will increase with the Consumer Price Index. More specific details about the elements of those provisions will be attached to this memorandum in the days ahead in a supplemental Exhibit B.
5. **Bond Measure:** I've agreed to lead an effort for voter approval of a capital bond measure for replacement or new construction, to both address capital replacement needs within the City's \$1.3 billion capital maintenance and replacement backlog, and for new construction for public safety, communications, parks, and other City needs. Among the capital needs include a police training center, new fire stations, parks, bridge replacement, flood and sea-level-rise protection, and broadband infrastructure for emergency communications.
6. **Charter Change:** I've agreed to lead an effort to go to the voters to eliminate provisions in the existing City Charter that mandate "low-cost-bidder" selection on City capital projects, to enable the City to have more flexibility to disqualify poorly performing contractors.

I'd like to thank all of the participants who assisted the City in negotiating this framework, particularly the private-sector development partners who offered their advice and input. I look forward to deliberating with my Council colleagues, and moving forward with a City ordinance that reflects the broad interest of our community in the weeks ahead.