



Staff Report

Date: April 12, 2016

To: City Council

From: Valerie J. Barone, City Manager

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Subject: **Consideration of the Council Ad Hoc Committee's recommendation that Council authorize the Ad Hoc Committee to work with outside Counsel Michael Vlaming and staff to negotiate with the various building trade unions a possible City-wide project stabilization agreement**

Report in Brief

On December 1, 2015, as part of the City Council's public meeting agenda, then-Mayor Tim Grayson formed an ad hoc committee of the Council to discuss project agreements and appointed himself and Councilmember Dan Helix to the committee, with Councilmember Helix serving as committee chair..

Subsequently, the City Manager contacted outside experts that had appropriate qualifications to support the Ad Hoc Committee members in their work; she identified and hired Michael Vlaming of Vlaming & Associates. Mr. Vlaming has met with the committee and City staff. At this phase in the process, the Ad Hoc Committee is requesting Council authority to have Mr. Vlaming negotiate, under the direction and guidance of the Committee, a tentative city-wide project stabilization agreement directly with the Contra Costa Building & Construction Trades Council. Once negotiated, the tentative agreement would be brought before the full City Council for consideration at a future public meeting.

Recommended Action

The Ad Hoc Committee of the Council recommends that the City Council authorize the City's outside legal counsel (Michael Vlaming) and staff to work under the direction of the Ad Hoc Committee to develop a tentative project stabilization agreement (PSA) with the Contra Costa Building & Construction Trades Council. The tentative PSA would be brought before the full Council at a future public Council meeting for consideration.

Background

On December 1, 2015, as part of the Council's public meeting agenda, then-Mayor Tim Grayson formed an Ad Hoc Committee of the Council to discuss project agreements and appointed himself and Councilmember Dan Helix to the committee, with Councilmember Helix serving as the Chair.

Project agreements essentially standardize the work rules applicable to a project and applicable to labor relations between contractors and the unions. Additionally, project agreements serve as a risk-management tool protecting the covered projects from construction delays caused by an interruption in the supply of labor.

Because the City of Concord has no in-house expert on project agreements, the City Manager looked for outside expert knowledge to support the Council's Ad Hoc Committee. After reviewing the qualifications and costs from three firms, she selected Michael Vlaming of Vlaming & Associates to provide this support to the Ad Hoc Committee. Mr. Vlaming is a licensed and practicing attorney in California and has extensive experience in the negotiation and administration of project agreements for both public and private entities within California.

In discussing project agreements it is important to share a definition of key terms. Below are definitions provided by outside Counsel Michael Vlaming that relate to this staff report:

- A "**Project Agreement**" is a pre-hire collective bargaining agreement entered into by an entity (i.e., the City of Concord) with the building trades unions. There are two types of project agreements: a Project Labor Agreement (PLA) and a Project Stabilization Agreement (PSA).
- A "**Project Labor Agreement**" (PLA) is a stand-alone agreement that contains all of the provisions applicable to a construction project and does not incorporate by reference the provisions of any other agreement(s);
- A "**Project Stabilization Agreement**" (PSA) is a project agreement that contains provisions applicable to the construction project and incorporates by reference the provisions of each of the building trades unions local Master Labor Agreements.

- A “**Master Labor Agreement**” is the collective bargaining agreement for a particular building trades union negotiated between the union and the historical bargaining representative of the employers (contractors). Master Labor Agreements contain the unique work rules and requirements applicable to that particular building trades union.

Since there is no negotiation of uniform work rules applicable to all craft unions in a PSA, the negotiation process is more efficient and cost effective than negotiation of a PLA.

Project agreements, whether PLAs or PSAs, contain certain standard provisions regarding prohibitions against activities by unions and contractors which disrupt the prosecution of construction work, grievance dispute resolution procedures, worker referral procedures, jurisdictional dispute resolution procedures and general work rules to be followed on the jobsite. In addition, project agreements may also contain provisions for the employment of local residents and returning military veterans on construction projects covered by the PSA.

Project agreements have been used by both private and public entities in California in the performance of large, complex, multi-craft construction projects or long term construction programs involving multiple projects. The City of Concord used a project labor agreement for the construction of the parking garage located at the corner of Salvio Street and Concord Ave. Neither Mr. Vlaming nor staff is aware of any cities within Contra Costa County or the broader Bay Area that have adopted a city-wide policy requiring the use of project agreements for all city-bid construction projects. However, Contra Costa County has an ordinance requiring the use of project labor agreements for all Contra Costa County capital construction projects over \$1,000,000 in value.

Analysis

After meeting with Mr. Vlaming and staff and studying the possible issues and benefits of a citywide PSA, the Ad Hoc Committee has determined that there are two main community benefits that could be obtained in establishing a city-wide project stabilization agreement: the first is to reduce risk of delay or labor strife on large, complex, multi-craft construction projects; the second is as a tool for achieving good jobs for local residents and veterans.

Consequently, as a means to achieving these two community benefits on future large and complex City initiated and bid construction projects, the Ad Hoc Committee would like authority from the full Council to direct Mr. Vlaming and staff in negotiating a tentative project stabilization agreement (PSA) with the Contra Costa Building &

City Council Agenda Report

Consideration of Council Ad Hoc Committee to work with Michael Vlaming and staff to negotiate with the building trade unions a possible City-wide project stabilization agreement

April 12, 2016

Construction Trades Council. The tentative PSA would be brought before the full Council at a future public Council meeting for consideration.

Financial Impact

The fiscal impact of any proposed city-wide project stabilization agreement would be analyzed and shared with Council once a draft version has been written. It is premature to attempt to analyze fiscal impact, if any, at this point in time.

Mr. Vlaming is working on a time and materials professional services contract with a “not to exceed” cap of \$20,000. The City Manager has the authority to raise the cap; however, were expenses to rise to \$50,000 or above, the full Council would need to approve the contract.

Public Contact

The City Council Agenda was posted. Copies of the agenda and staff report were sent to the Associated Builders and Contractors Northern California Chapter; Contra Costa Building and Construction Trades Council; Central Labor Council of Contra Costa County, AFL-CIO; and the Building Industry Association, Bay Area.

Attachments

None