

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JASON NUTT, ASSISTANT CITY MANAGER
CITY MANAGER'S OFFICE
RAISSA DE LA ROSA, DEPUTY DIRECTOR – ECONOMIC
DEVELOPMENT
SUBJECT: PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
PROJECT LABOR AGREEMENT POLICY INFORMATIONAL
SESSION

AGENDA ACTION: STUDY SESSION

RECOMMENDATION

The City Manager's Office and Economic Development Division will provide Council with an overview of Project Labor Agreements, local construction labor demographics, city capital improvement program statistics and various policy options for consideration and further discussion.

EXECUTIVE SUMMARY

Council has requested that staff evaluate policies and strategies to enhance the return on local investment via public infrastructure projects, whether monetarily by exploring options for hiring local contractors and/or professionally by increasing opportunities to develop a robust skilled local workforce. A sampling of common tools used by government agencies to accomplish this interest include (1) Project Labor Agreements (PLAs), (2) Community Workforce Agreements, and (3) requirement-fortified construction contracts using the local agencies existing contract templates. Staff will use this study session to clarify council's interest in developing a stronger local investment policy, define typical PLAs, provide alternative local labor policies, describe local labor demographics, and review the City's capital improvement program aimed at determining if the City would benefit from exploring PLAs, community workforce agreements, requirement-fortified changes to existing contracts and/or other policy options for some or all capital projects undertaken by the City.

Staff is particularly interested in feedback concerning potential tools and possible tradeoffs connected with policies that may best and most effectively help accomplish the following related to the delivery of some or all City infrastructure projects: (1) Enhance our highly skilled local workforce and increase access to apprenticeship programs to

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benefit diversity, equity, and broader inclusion in the workforce; (2) Reduce carbon footprint by keeping local workforce local; and (3) create positive economic impacts by re-investing capital improvement funds through the local workforce.

BACKGROUND

Local agencies around California have explored Project Labor Agreements (PLAs), Community Workforce Agreements, requirement fortified provisions in existing contract templates and other programmatic approaches towards the objectives identified above. City staff are referencing PLAs and CWAs as generally described below:

Project Labor Agreements (PLA)

PLAs are a collective bargaining agreement executed prior to the beginning of a construction project or group of construction projects. PLAs are typically used for larger and more complex projects that both necessitate worker representation by local labor unions and set forth basic terms and conditions of employment applicable to contractors. They have been used in the United States since the 1930s and include large construction projects such as the Grand Coulee Dam, Shasta Dam and Hoover Dam.

PLAs are typically negotiated between the project owner (e.g., a city or other government entity) and the local building trades council and/or individual construction trade unions. That said, PLAs may also be directly negotiated between contractors and construction trade unions. The agreements are negotiated prior to advertisement for bids and become part of the construction bid documents. The general contractor and all subcontractors must agree to be bound by the requirements of the agreement as part of their bid submission and they must sign on to the agreement prior to performing any work on a PLA-covered project.

PLAs typically require workers to have membership in certain trade unions, at least for the time relevant to the project. By requiring adherence to various union collective bargaining agreements, PLAs also specify establishment of:

- uniform work conditions
- hiring procedures
- wages and benefits
- management rights
- labor dispute resolution procedures
- procedures to prevent work stoppages
- agreement to adhere to existing Master Labor Agreements (MLAs) for the trades subject to the PLA

A typical PLA may also include no-strike and no lock out provisions and procedures for resolving disputes. Proponents consider this to be one of the most significant conditions in most PLAs that unions agree not to strike or engage in other disruptive activities, and the contractors and their subcontractors agree to no lockouts for the duration of the

construction project. This is presented as an important factor in delivering public projects on time and within budget and adds a measure of stability in the project timelines. These agreements also sometimes include hiring goals and targets, typically described as Community Workforce Agreements, to promote participation in covered projects from targeted categories of workers, including local residents, apprentices, historically underutilized residents and businesses, at-risk persons, veterans, minority-owned businesses and/or disadvantaged business enterprises.

Community Workforce Agreements (CWA)

CWAs are provisions in PLAs that include targeted building trade hiring provisions to create employment and career paths for low-income or under-represented people. A couple examples are as follows:

- City of Los Angeles (2001) - The agreements vary slightly but tend to require 30-40% of new construction jobs created be filled by residents of neighborhoods or zip codes adjacent to the project. The agreements establish further requirements that 10–15% of construction work hours be performed by at-risk workers, including workers from poor households and workers with a history of incarceration or receipt of public assistance, among other things.
- Port of Oakland (2001-08) - A requirement that 50% of all construction hours be worked by residents of the Port's local impact area, which includes the neighboring communities of Alameda, Emeryville, Oakland and San Leandro. Additionally, a requirement that 20% of all hours worked be performed by apprentices from the local impact area, providing an entry-point into construction careers for new and aspiring construction workers.

Summary of City Economic Development Subcommittee Activity

In 2021, the City's Economic Development Subcommittee (ED Subcommittee) requested that staff explore issues and elements related to establishing a PLA policy for the City. Staff provided an introductory presentation to the Subcommittee on February 8, 2022, where staff outlined their understanding of the general intent of the request and framed the criteria and process staff would use to guide the conversation and further develop potential policy parameters.

February 2022 ED Subcommittee Feedback to Staff: At the February 2022 ED Subcommittee meeting, subcommittee members provided feedback clarifying the criteria for staff to focus on as follows:

- Develop and further enhance the City's existing highly skilled local workforce and increase access to apprenticeship programs to benefit diversity, equity and broader inclusion in the workforce.
- Reduce carbon footprint by keeping local workforce local.

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- Increase the local economy by re-investing capital improvement funds through the local workforce.

Staff Follow-Up Research for ED Subcommittee: Based on the stated criteria, in preparation for the May Subcommittee meeting staff gathered additional information as follows:

- Interviews with:
 - (1) North Bay Trades Council;
 - (2) Non-union trade organizations;
 - (3) Public agencies that have had both positive and negative experiences with Project Labor Agreements; and
 - (4) Local contractors
- Focused evaluation of city projects
- Analysis of local workforce demographics in the City, County and Region.
- Development of key definitions associated with policy development
- Evaluation of state and local laws that regulate public contracting, including those applicable to PLAs, CWAs and local hiring policies
- Identification of possible opportunities in existing construction contract agreements to achieve stated objectives

May 2022 ED Subcommittee: On May 10, staff returned to the Subcommittee with preliminary information associated with this research. Feedback from the Subcommittee was as follows:

- **Local Labor** is to be considered as workers whose home address is in one of these counties:
 - Sonoma
 - Marin
 - Napa
 - Mendocino
 - Lake

It should be noted that one committee member suggested an alternative definition using a 1-hour drive time as the range for defining Local Labor.

- **Public infrastructure projects** are the focus, with some Subcommittee members preferring that all public infrastructure projects, regardless of type, should be considered in conformance with the adopted threshold vs. on a project-by-project basis.
- Interest in incorporating **Community Workforce Agreement** language.
- There was no consensus on a **project threshold**; Subcommittee members requested additional evaluation.

In addition, based on previous feedback staff presented the following Statement of Purpose, which received general approval from the Subcommittee in May 2022:

To evaluate whether adoption of a PLA policy:

- (1) Creates a unique environment where a skilled local labor pool is developed to support public infrastructure projects;
- (2) Results in improved on-time delivery and within adopted budget and contingency; and
- (3) Should focus on individual projects, specific project types or project estimate threshold.

If a policy is recommended for Council consideration, ensure:

- (1) Consistency with existing state and federal laws and funding requirements; and
 - (2) That the proposed policy provide for the greatest public interest.
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Summary of Additional Staff Engagement with Stakeholders

Following the May 2022 ED Subcommittee, staff continued extensive outreach with key stakeholders. Given the policy interests to be balanced, staff focused on making an earnest attempt at meeting with and considering a breadth of perspectives. Of the many meetings, the core group staff engaged with the following:

North Bay Building Trades Council

In addition to email exchanges and less formal phone calls, on May 3 and again on June 14 staff met with the North Bay Building Trades Council (Trades Council), representing 18 craft labor unions that are predominantly located in the northern portion of the Bay Area as outlined below:

- | | |
|----------------------|----------------------------|
| • 4 in Sonoma County | • 4 in Alameda County |
| • 1 in Marin County | • 5 in Contra Costa County |
| • 3 in San Francisco | • 1 in Los Angeles |

The Trades Council has been active in Sonoma County and the surrounding areas for over 75 years, creating diverse and sustainable middle class construction careers. The demographic information they provided that showed 40% of their North Bay construction workers live in Sonoma, Marin, Napa and Mendocino counties equaling approximately 1,000 individual construction workers with $\frac{3}{4}$ of those living within Sonoma County. They also described the following priority for assigning construction workers in compliance with PLA requirements:

1. Local construction workers – Contracting agency will define local, which could include jurisdictional boundaries, specific zip codes, census tracts, etc. (i.e. City

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of Santa Rosa; zip codes 95401, 95403, 95407; Census Tracts 1531 & 1532, etc.)

2. Regional construction workers – Contracting agency can further define second tier conditions to meet the local requirements, which may expand jurisdictional boundaries (i.e. Sonoma, Marin, Napa and Mendocino counties)
3. Statewide construction workers – If local construction workers are not available for the project, construction workers will be pulled from other areas throughout the state beginning with those jurisdictions covered by the North Bay Building Trades Council.

The Trades Council also provided information on its North Bay Trades Introduction Program (NB TIP). NB TIP is an apprenticeship readiness program that seeks to inform local communities about apprenticeship, promote apprenticeship opportunities, and help interested candidates explore, prepare for, and apply to apprentice programs in the building and construction trades. The program partners with Community Colleges and Adult Ed programs, Workforce Development Boards, Apprenticeships, Building Trades Councils, and support organizations such as Tradeswomen, Inc, and Helmets to Hardhats. Many of these partners are signed to the MOU forming the NB TIP Program and contribute their expertise and/or services to prepare candidates for success.

The NB TIP program training is currently a minimum of 120 hours, using a variety of locations and schedules. Our processes include outreach, an orientation meeting, interviews with candidates, the course, industry representative presentations and field trips, a graduation, and follow up assistance toward placement in construction joint apprenticeship employment and training, or other desirable outcomes. Graduates earn both NABTU and NB TIP certificates, as well as first aid/CPR and OSHA 10 certifications. This is a state approved Certificated Apprenticeship Readiness Program that introduces candidates to apprenticeship in several building and construction trades. The training increases student's skills in construction math, drafting, drawing, work readiness, and job safety, while developing relationships within the North Bay Building Trades industry and making participants more viable union apprenticeship candidates. They focus on helping those served in the program lift themselves up to high quality sustainable careers.

Through a series of grants, the TIP program created a program to reach racial/ethnic minorities, formerly incarcerated, disadvantaged youth, women, military veterans, low-income households, low income and environmentally disadvantaged community members. Over the past year the TIP program has served the following demographics:

- Gender: 28% women, 71% men, 1% non-binary
- Race/Ethnicity: 20% white, 51% Hispanic, 2% Pacific Islander, 8% Asian, 2% American Indian/Alaskan Native, 17% Black/African American

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In addition to the regular adult NB TIP program noted above, NB TIP is also participating in a pilot program of short “camps” for high school girls who may have interest in the trades. Their first pilot cohort, in coordination with Santa Rosa CTE at Santa Rosa High School, included 10 young women who were finishing their Junior or Senior year in high school, with positive results.

Non-Union Trade Associations

Staff interviewed two non-union trade associations to more clearly understand the impacts resulting from PLA policies on their members and how their apprenticeship programs compare to those of the Trade Council. Both apprenticeship programs mirror those offered by the Trade Council, offering on-the-job training, pay and benefits (health, dental, vision and EAP). The methodology for how benefits are provided does vary slightly between the various associations.

Staff interviewed the *Western Electrical Contractors Association* (WECA) on May 19 to learn more about their apprenticeship programs and how PLAs are impacting their members. WECA is a nonprofit organization serving merit shop electrical contractors, their employees, and the industry suppliers that support them. They offer federal and state-approved Commercial, Residential, and Low Voltage (Voice Data Video and Fire Life Safety) Electrical Apprenticeship programs, a state-approved Electrician Trainee program, certification exam preparation classes, and state-approved continuing education classes for journeyman electricians and low voltage technicians. WECA dispatches member apprentices to jobs within 80 miles of their residence and only outside that distance upon request and authorization from the apprentice.

On June 9, staff met with the *Associated Builders and Contractors Northern California* (ABC NorCal) who represents close to 500 large and small companies across Northern California and train 300+ apprentices per year. They serve contractors, subcontractors, suppliers and associates of all trades who want to conduct business in an unrestricted market regardless of labor affiliation. Due to state limitations, ABC NorCal has five trade focus areas: carpentry, plumbing, painting, electrical and construction craft laborer. ABC NorCal noted that they only have 20 local member companies in Sonoma County but would be very interested in partnering with the City and other agencies and non-profits to create a more substantive local workforce development program for the trades. The primary focus of the conversation was around how to increase local workforce development regardless of whether union or non-union and how to craft non-exclusionary language associated with a local workforce policy.

Staff followed up with ABC on June 22 to further discuss their Workforce Development program. Similar to the Trades Council's TIP program, ABC has a state certified pre-apprenticeship program that offers a variety of skill development while a candidate is waiting for acceptance to one of their apprenticeship programs. Examples of their pre-apprenticeship program include a Construction Core and Leadership Course (Core) as well as an Electrician Pre-Apprenticeship program. Participants in the Core program learn basic construction skills, such as blueprint reading, basic safety, rigging and material handling among others. Graduates from the Electrician program earn an ET

card that qualified them to work and earn a wage with C10 contractors in private industry while they are awaiting acceptance in an apprenticeship program, whether union or non-union. In addition, they noted that they have historically worked in local school districts to introduce high school students to the trades and in some cases conducted classes that resulted in career focused training certificates, such as the OSHA-10 class.

Santa Rosa Junior College – Measure H

Staff also met with Serafin Fernandez, Senior Director – Capital Projects, on May 20 to discuss his experience utilizing PLAs at Santa Rosa Junior College (SRJC). Mr. Fernandez noted that the SRJC's PLA policy is project-by-project focused. The SRJC team determined that the two largest projects, the Burbank Auditorium and STEM building projects, would be bid utilizing the PLA policy while all other projects would be bid through a non-PLA process. The two PLA projects were approximately \$40 million and \$75 million in total estimated costs, respectively. A labor compliance program was managed through a third-party consultant to ensure that the PLA contractors complied with the conditions of the policy, particularly relating to the incorporation of prevailing wages, apprenticeships and local hire. Through the labor compliance program, the SRJC has been able to demonstrate that approximately 75 percent of the union labor associated with the PLA projects have been local; considered being from Sonoma, Marin, Napa and Mendocino counties.

Mr. Fernandez noted that the contractors working on the non-PLA projects were generally the same as those working on the PLA projects. He indicated that there were a smaller number of bidders than expected and concluded that the PLA conditions on the two largest projects may be a detractor for other contractors from bidding. With that said, project costs appear to be mirroring the estimates and the PLA does not appear to have resulted in increased project costs.

Lastly, Mr. Fernandez explained that their PLA policy includes a requirement for all apprentices to enroll in the SRJC's trade program. The purpose is to provide a focus on growing apprenticeship numbers within the county.

ANALYSIS

Key Definitions and Descriptions for Council Consideration

Definitions were clarified to ensure criteria evaluation was clearly understood and consistent among Subcommittee members, public and staff. The following definitions and descriptions on local labor, PLAs, project types and contractor types reflect Subcommittee feedback

Local Labor

The three original definition proposals from staff were:

- **Definition 1** – Labor whose permanent home address is within the City's boundaries.
- **Definition 2** – Labor whose permanent home address is within Sonoma, Marin, Napa, Lake, and Mendocino counties.
- **Definition 3** – Labor whose permanent home address is within the jurisdictional boundaries of participating local trade organizations

Considering Subcommittee feedback, the small labor market in the area, and the size and complexity of the city's typical public infrastructure projects, staff has chosen to focus the discussion on Definition 2, which consists of workers whose home address is in one of the five listed counties.

Contractor Type

- **Building Trades** – those trades, as carpentry, masonry, and plastering, that are primarily concerned with the construction and finishing of buildings.
- **Union or Subscriber** – a hiring hall is an organization, usually under the auspices of a labor union, which has the responsibility of furnishing new recruits for employers who have a collective bargaining agreement with the union.
- **Non-Union or Merit** – used to refer to a company or organization that does not necessarily employ workers who belong to a union

Project Type

For this evaluation, "Project" is limited to public infrastructure projects, and include the following public infrastructure project types:

- *Roadway* – concrete, asphalt, weatherproofing/wearing surface
- *Linear* – water, sewer, fiber, etc
- *Vertical* – buildings (i.e. fire stations, offices)
- *Park, Landscape & Environmental* – including earth movement
- *Electrical* – traffic signal, building upgrade/retrofit
- *Mechanical* – HVAC, boilers, controls

Policy Implications Associated with PLAs.

Advantages to Consider:

Potential **advantages** of PLAs are believed to include the following:

1. Provide uniform wages, benefits, overtime pay, hours, working conditions, and work rules for work on major construction projects. This is currently required in the City's construction contracts that trigger prevailing wage requirements.
2. Provide contractors with a reliable and uninterrupted supply of qualified workers at predictable costs.
3. Ensure that a project will be completed on time and on budget due to the supply of qualified labor and potential relative ease of project management.

4. Ensure no labor strife by prohibiting strikes and lockouts, including binding procedures to resolve labor disputes.
5. Make large projects easier to manage by placing unions under one contract, rather than dealing with several unions that may have different wage and benefit structures.
6. May include provisions to recruit and train workers by requiring contractors to participate in recruitment, apprenticeship, and training programs for women, minorities, veterans, and other under-represented groups (this is a common Community Workforce Agreement (CWA) provision).
7. Reduces misclassification of workers and the related underpayment of payroll taxes, workers compensation, and other requirements.
8. May mean a larger percentage of construction wages stay in state.
9. May improve worker safety by requiring contractors and workers to comply with project safety rules.

PLA proponents note that the positive impact of creating career paths for women, minorities, veterans, and other under-represented populations may not be easily measured in the short term, but they say that developing qualified workers in the construction trades and including people who historically were underrepresented in the trades, has a positive long-term economic benefit for the individuals who receive the jobs, and for the construction industry as a whole.

Disadvantages to Consider:

Potential **disadvantages** of PLAs are believed to include the following:

1. Potential increased costs by mandating union wages, work rules and inhibiting competition.
2. Are anti-competitive because non-union or merit-based contractors may choose not to bid because either their members would be required to join a union if the contractor wins the bid or the contractor would not be able to use its own workers if the PLA required hiring through the union hiring hall.
3. Are inherently unfair to non-union or merit contractors and non-union employees.
4. Are an unnecessary mandate (if imposed by law).
5. Hinder the use of non-union contractor training programs that may operate more efficiently and are job specific, instead of union apprenticeship programs of a fixed duration. Additionally, this may limit access and/or broader inclusion to enter a trade.
6. Are unnecessary because of existing prequalification procedures that screen contractors that bid on public projects.

PLA critics also note that the issue is not always that PLAs are detrimental. Sometimes, they argue, having a PLA is not proof of an improved situation. For example, the available evidence does not show that PLA construction projects are safer than non-PLA projects. In California, cities are covered by prevailing wage laws that already establish competitive wages for public works projects. Further, local hiring objectives

can be achieved without a PLA by incorporating the objectives in the bid specs for any project. In other words, even in the absence of a PLA, the bid specs can require that the bidder who is awarded the project make good faith efforts to hire a specified percentage of local workers, similar to a CWA. Some critics of PLAs also point out that the amount of time needed to prepare, negotiate, and approve a PLA may also affect the timely completion of a project or add to costs.

General feedback is that PLAs and their administration carry the potential to add substantial complexity and administrative time and cost to City projects. Some agencies have indicated increased total project costs of between 10 and 40 percent associated with PLA policies. For example, the Vista Unified School District reported that a recent middle school project saw a 37 percent increase in estimated costs between January and April 2022 relating to longer material lead times, increased material costs and fewer bidding contractors due to the PLA requirements. East Bay Municipal Utilities District (EBMUD) also conducted a contractor survey in 2017. Eleven contractors responded, eight of which were union and three non-union. All eleven indicated that PLA policies increased costs and seven indicated that the policy was a disincentive to bid. EBMUD ultimately decided not to move forward with a policy.

It should be noted that in some areas, PLAs remain controversial. Several localities in California have banned the use of PLAs. Voter-approved initiatives have banned PLAs in San Diego County and in the cities of Chula Vista and Oceanside. Ordinances adopted by the Fresno City Council and boards of supervisors in Orange County, Placer County and Stanislaus County also ban PLAs.

Additional Considerations and Factors to Balance

This report does not propose to resolve these conflicting positions as to the value, utility, and cost impacts of PLAs, but attempts to provide the City Council with as much objective, preliminary information as possible and facilitate a public discussion of the potential benefits and impacts of a PLA in general as it relates to the delivery of large city infrastructure projects over the next several years. If the City Council decides to move forward with the development of a PLA policy, future analysis will need to be conducted specific to each project, to determine the likely time and expense associated with negotiating and implementing an agreement for each project.

There remains concern that the adoption of a PLA policy will lead to the exclusion of smaller minority owned businesses that are typically not unionized. Staff reports from several agencies evaluating PLAs have identified this as a primary area of concern. This could not only directly impact the specific demographic PLAs are intended to support but also force smaller contractors to travel longer distances for work. Many smaller, local contractors are not unionized and may be adversely impacted should a PLA policy be used for a particular project as they may be excluded if they or their employees choose not to affiliate with a subscriber union. This can also occur even if they temporarily affiliate, if a local hire percentage isn't clearly defined.

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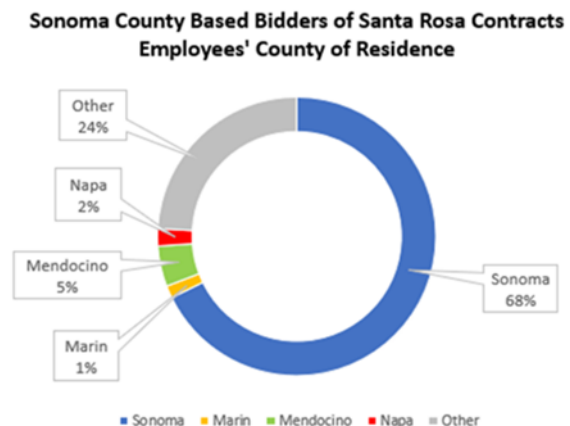
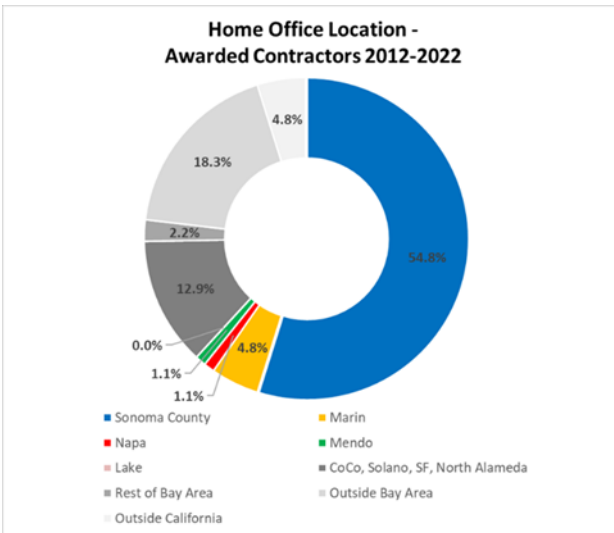
If a local hire preference is recommended, staff suggests further research be conducted to determine our region's true local hire percentage. To balance the discussion, should council choose not to recommend development of a PLA policy, they can request that staff still develop a local hire policy not related to PLAs.

City, County and Region-Specific Information to Evaluate:

Contractor Demographic Information

Data from the city's online project bidding platform (PlanetBids) shows:

- 25% of bidding companies are located locally, per the definition of local.
- 62% of contracts awarded were to local companies, per the definition of local, and 75% within the full Bay Area.
- Of 65 Sonoma County based contractors that responded to our survey, 31% reported employee demographic data indicating 75% of their employees have residential zip codes within Sonoma, Marin, Napa and Mendocino counties.



Capital Improvement Project Statistics

Project statistics offer a way to begin framing which projects might be subject to a potential PLA policy.

- Between 2015 and 2022, only 4% of the capital investment related to projects greater than \$5 million; however, those six project were 24% of the total capital investment.
- Looking ahead at projects expected to bid in the next three years, staff identified twelve projects that will have estimated costs above \$5 million. Those twelve projects will include approximately 72% of the capital investment in city projects.

Housing development projects that receive City funding were also discussed for PLA policy inclusion. Like capital improvement projects, housing projects are already

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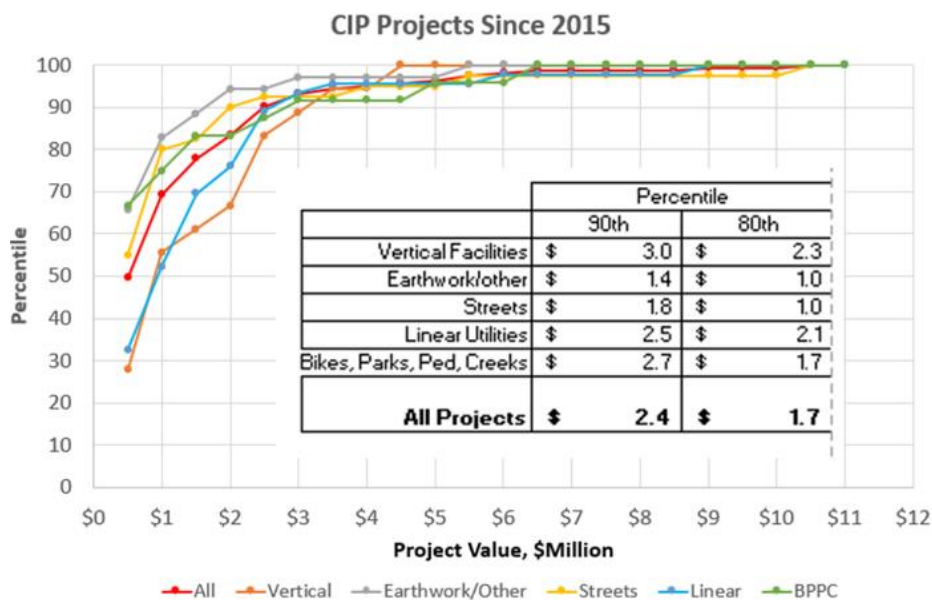
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required to pay contractors' labor at prevailing wage, thus the Subcommittee concluded that any PLA policy should be focused exclusively on public infrastructure projects and explicitly exclude housing projects.

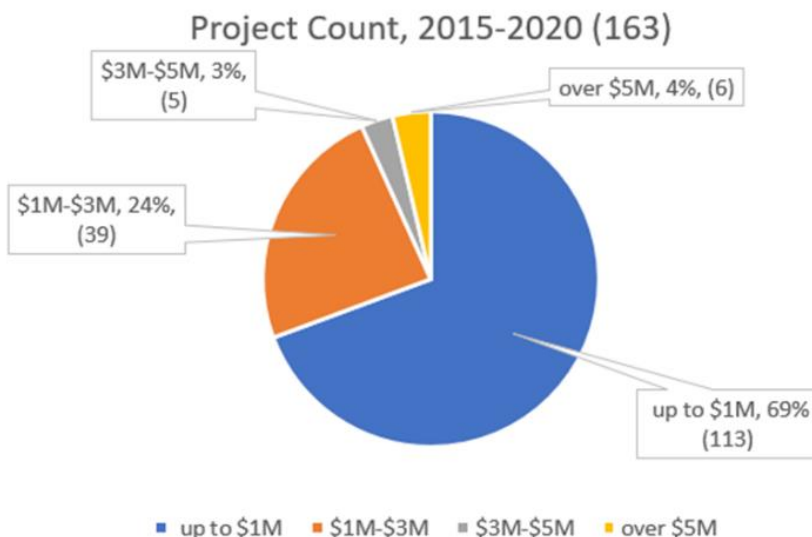
Project Threshold

Staff has had discussions with and collected feedback from both agencies that have adopted PLA policies and those that have not. In general, a majority of the agencies use PLAs on a case-by-case basis with a specific focus on major projects, such as the SRJC. Staff reviewed awarded projects between 2015 and 2020 and organized the data in three primary ways to arrive at a threshold recommendation.

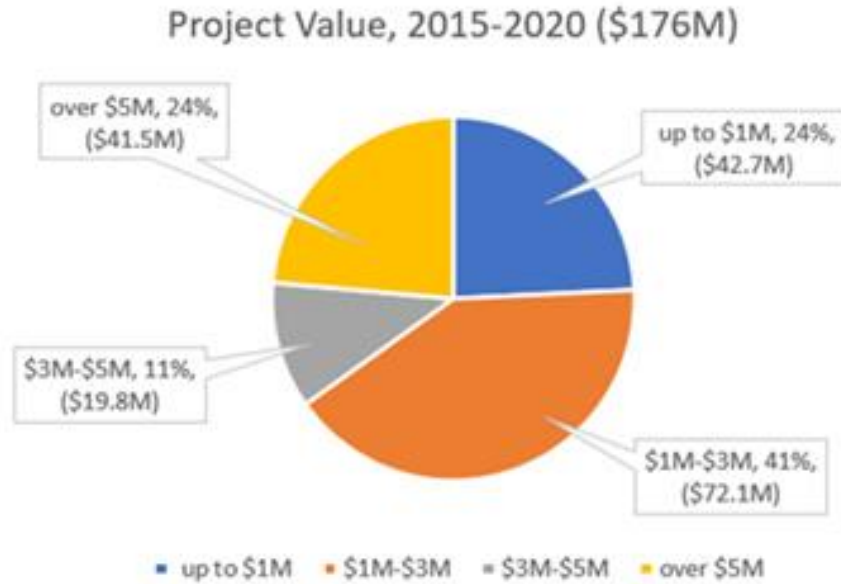
1. 90th Percentile



2. Total number of projects by project value



3. Total investment value by project value



Given the various ways to look at the project history, size and type of upcoming future projects, staff is suggesting a \$5 million threshold if the council recommends further evaluating a PLA policy.

Discussion of Policy Objectives and Options

As noted above, Staff is particularly interested in Council feedback concerning potential tools and possible tradeoffs connected with policies that may best and most effectively help accomplish the following related to the delivery of some or all City infrastructure projects:

1. Enhance our highly skilled local workforce and increase access to apprenticeship programs to benefit diversity, equity, and broader inclusion in the workforce;
2. Reduce carbon footprint by keeping local workforce local; and
3. Create positive economic impacts by re-investing capital improvement funds through the local workforce.

In particular, Council may wish to consider:

1. As a threshold matter, Council may wish to discuss whether to:
 - a. Move forward with development of a PLA and/or CWA in general,
 - b. Combine a PLA with other policy approaches (e.g. other workforce development and/or apprenticeship program support),
 - c. Explore options for enhancing existing contract vehicles, and/or
 - d. Not move forward with a PLA and/or CWA at all.

2. Where Council recommends moving forward with consideration of a PLA and/or CWA, key questions for Council discussion may include:

- a. Scope of PLA policy. The Council could decide to apply PLAs to projects on a project-by-project basis or as a blanket policy. A project-by-project application would allow the Council to focus PLAs on the most advisable projects, review the merits of PLAs and provide greater flexibility to the project delivery teams, similar to the PLA policy application by the Santa Rosa Junior College. A blanket application would result in the policy being used for all projects that conform to the policy criteria.
- b. Project threshold for PLA. PLAs and their administration carry the potential to add substantial complexity and administrative time and cost to City projects as reflected in the feedback from the Vista Unified School District and EBMUD examples. If the project threshold is not high enough and PLAs are applied to small projects, the costs and complexities have a decent potential to outweigh any larger benefit. This consideration was modeled by the City of Santa Barbara, for example, which set their threshold at \$5 million (which is staff's initial recommendation. In summary, the bookended consideration is whether to establish a threshold that accomplishes a large percentage of projects, or one that ensures the largest percentage of invested capital which may include very few projects. The more projects that are included, the higher the potential for significant impacts to small and minority owned contractors.
- c. Project Type: The City can include and/or exempt certain types or categories of work from PLA requirements:
 - i. For instance the hiring of inspectors and testers by the City could be exempt from the PLA requirements. The City uses construction management consultants, including inspectors and testers, to provide construction oversight and inspection services during construction of City projects. These are third party services that are independent of the construction contractor and the contractor's employees and are the City's primary assurance in the delivery of a high-quality project. As such, the City currently selects construction management consultants based on California Government Code Chapter 10 Section 4526 that requires a qualification-based selection process, not a low bid-based selection that is used for selecting a contractor on construction projects. Construction management consultant staff typically consists of licensed professional engineers and technical staff that perform work not typically associated with the various trades (such as building, plumbing, roofing, pipefitting, welding, etc.). Use of construction management firms selected by demonstrated competence and on

professional qualifications is important because it is in the best interest of the City to have the most qualified team performing independent quality assurance inspection and material testing on construction projects, especially for large, structural building projects. If inspectors and testers are not exempt from the PLA requirements than this may restrict the City's ability to select the most qualified team to perform construction management services, including inspection and materials testing services.

- ii. The City could also elect to only apply PLAs to certain categories of projects where it makes the most sense – as noted above, City projects generally fit within the following categories: Roadway, Linear, Vertical, Park, Landscape & Environmental, Electrical and Mechanical.
- d. Local Labor Definition. Considering ED Subcommittee feedback, the small labor market in the area, and the size and complexity of the city's typical public infrastructure projects, staff has chosen to focus the discussion on Definition 2, which consists of workers whose home address is in one of the five listed counties, as follows: Labor whose permanent home address is within Sonoma, Marin, Napa, Lake, and Mendocino counties.
- e. Local hire incentives and percentages. Consider inclusion of a local hire percentage or Community Workforce Agreement (CWA). This can be implemented either with or without development of a PLA policy and can counter the potential negative impacts to local businesses.
- f. Inflation or escalation factor for threshold amount. With the increase in construction costs the City could find itself using PLAs for smaller projects over time than what was initially intended if an inflation factor applicable to the dollar threshold is not included in the PLA requirements.
- g. Identify options for the City to proceed with Project in the event that good faith PLA negotiations are not successful. Without this provision, projects could be prevented from moving forward by a union that refuses to reach agreement on terms that are reasonably acceptable to the City. This provision would be consistent with collective bargaining law applicable to the City's negotiations with its own employee labor unions that allows the Council, after having engaged in both good faith bargaining and impartial mediation to attempt to resolve any impasse, to proceed under its "last, best and final" offer to the Union.
- h. Set term and revisit date. As the use and application of PLAs for the City of Santa Rosa is an unknown, including a provision in the PLA requirements to revisit the policy, or have it expire on a certain date if not

renewed, provides the City with an opportunity to learn from past use of PLAs and adjust accordingly. The City of Berkeley has established a three-year term unless renewed clause in their PLA policy.

- i. Consider Other Exclusions for the use of PLAs. By way of example, some agencies do not subject projects that have already received entitlements, time sensitive permits, and/or are grant funded to PLA requirements. For instance, Council may wish to consider options for addressing situations where use of a PLA on projects that have received entitlements, time-sensitive permitting and construction windows, and/or grant funding could create significant project schedule delays and significantly increase project costs, that could potentially jeopardize grant funding and/or delivery of the entire project.
- j. Other Policy Approaches for Staff Consideration. In addition to, or as an alternative to PLAs, Council may wish to discuss whether other tools may be available and/or worth pursuing in order to leverage City resources to encourage local apprenticeship and workforce development opportunities.

PRIOR CITY COUNCIL REVIEW

None

FISCAL IMPACT

This study session does not have any fiscal impact; however, potential fiscal impacts associated with Project Labor Agreement policies will be presented.

ENVIRONMENTAL IMPACT

This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, minor alterations in land use limitations.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

March 8, 2022 – Staff provided an initial informational presentation to the Economic Development Subcommittee. No action taken.

May 10, 2022 – Economic Development Subcommittee recommended that staff present to the full council as a Study Session in July 2022.

NOTIFICATION

No public notice is required for the proposed right-of-way and easement vacations.

ATTACHMENTS

None.

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