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October 17, 2023

Board of Supervisors
County of Ventura
800 S. Victoria Ave.
Ventura CA 93009

Subject: Recommendation of Supervisor LaVere and Supervisor Long to Direct Staff to Enter Into a Pilot Project Labor Agreement (PLA) for the Construction of the New Santa Paula Fire Station No. 29 with the Ventura County Building Trades (Tri-Counties Building & Construction Trades Council and Southwest Regional Council of Carpenters Local 805); Direct Staff to Perform a Cost and Performance Study and Present the Results to the Board of Supervisors for Review.

Recommendation:

- 1) Direct staff to enter into a Pilot Project Labor Agreement (PLA) for the construction of the new Santa Paula Fire Station No. 29 with the Ventura County Building Trades (Tri-Counties Building & Construction Trades Council and Southwest Regional Council of Carpenters Local 805) pursuant to the terms of the sample Project Labor Agreement attached hereto as Exhibit 1.
- 2) Direct staff to perform a cost and performance study of the Pilot PLA, including criteria for gathering and analyzing data for the purpose of providing objective and measurable information for evaluation of the benefit of a possible Community Workforce Agreement, and present the results of the study to the Board of Supervisors for review.

Background:

On July 28, 2020 the Board of Supervisors directed staff to study the advantages and disadvantages of using a Community Workforce Agreement (CWA) for certain County and dependent special district public works projects and report back to the Board recommendations for implementation of a CWA. It was the Board's desire to increase the use of local labor in a socially equitable fashion using a CWA. At this meeting, a CWA between Oxnard Union High School District (OUHSD) and the Tri-Counties Building and Construction Trades Council (TCBTC) was presented. The TCBTC draft CWA presented to the Board covered all County construction projects over \$250,000 to be undertaken during the term (5 years) of the CWA.

On September 15, 2020, staff returned to the Board and presented a detailed analysis of their findings on the advantages and the disadvantages of using a CWA for all projects exceeding \$250,000. The conclusion was that the advantages of using the TCBTC Draft CWA might increase project costs by ten percent or by \$75M over the five-year life of the CWA. However, staff also acknowledged that the estimated cost increase could be significantly mitigated through refinement and clarification of key elements of the TCBTC draft CWA.

On November 10, 2020, the Board directed staff to negotiate a pilot Project Labor Agreement (PLA), i.e., project specific CWA with TCBTC, Laborers International Union of North America Local 585, and the Southwest Regional Council of Carpenters Local 805 for four specific projects. The Board also directed that each of the four PLA projects be dual bid, meaning bid with a PLA and without a PLA. At the conclusion of the four projects, staff was also instructed to assemble the project data and determine the benefits and increased costs (if any) of using a PLA on County projects. The initial projects the Board directed that staff include in the pilot PLA program were: 1. Thousand Oaks Fire Station #34; 2. Santa Paula Fire Station #29; 3. Fire Training Center; and 4. Sheriff's Hangar Replacement Facility.

At the time, the Board's stated goals for adopting a PLA were as follows:

- 1) Support hiring of Ventura County residents which keeps local dollars local (creating an economic force multiplier) and keeps County residents "close to home" while they work (better quality of life);
- 2) Promote social equity through targeted "apprenticeship" hiring of disadvantaged or underrepresented Ventura County communities, thus developing a more skilled county workforce (also reducing unemployment) and better pay for workers (ensuring a "living wage" which raises standard of living and means less dependence on local aid).

Starting in early December 2020, staff from Ventura County Public Works Agency (PWA) and the Ventura County Fire District began negotiating the PLA language with TCBTC to develop a legally defensible PLA meeting the Board's stated goals (above) while minimizing project cost increases. Over nearly 9 months of negotiations, PWA staff and TCBTC met on a regular basis to discuss all sections of the draft agreement. At these meetings, both parties shared their ideas on how best to accomplish the Board's goals within the framework of a legally defensible PLA while also recognizing the requirements under the law for public works projects by local governments. While much progress was made on the negotiation of the PLA, TCBTC ultimately asked to press pause on the PLA negotiations, putting the negotiated agreement in its modified form on the shelf for future use should they decide to return with a request that a PLA be adopted for another project(s). TCBTC informed PWA staff that a major reason for their request to pause negotiations was that their affiliates (numbering approximately 22) were unanimous in not wanting to move forward at the time largely due to the fact that the Pilot PLA projects would be dual bid and that there was an overall lack of trust in this process. On October 12, 2021, the Board received an update on the November 2020 pilot PLA project and removed the four projects listed above from the pilot program.

Discussion:

The use of PLAs has become much more commonplace recently, even in the short time since the County and TCBTC paused their negotiations, for the reasons stated below. OUHSD used a PLA for the construction of the beautiful new Del Sol High School, the County of Santa Barbara recently approved a county-wide PLA for all county construction projects over \$10 million, and the Port of Hueneme has successfully been using a PLA for projects at the port for several years now.

The draft Pilot PLA before the Board for consideration includes the exact language previously agreed to by County PWA staff and TCBTC, with two modifications: 1) the dual bid requirement has been removed from the draft agreement and 2) Surveyors, Building/Construction Inspectors and Field Soils and Materials Testers (collectively, “Inspectors”) have been added as a covered craft under the agreement.

The benefits of constructing projects using a project labor agreement are numerous:

- PLAs provide for uniform wages, benefits, and overtime pay, while also reducing the threat of wage theft by unscrupulous contractors;
- PLAs protect the health and safety of workers by mandating safe working conditions;
- PLAs provide contractors with a reliable and uninterrupted supply of qualified, skilled workers at predictable costs;
- PLAs improve efficiency and cut costs by establishing rules and requirements for major construction projects, while also ensuring that projects will be completed on time and on budget due to the supply of qualified, skilled labor and relative ease of project management;
- PLAs minimize delays and ensure no labor strife by prohibiting strikes and lockouts, while also including fair provisions to quickly resolve any labor disputes;
- PLA’s support the preferential hiring of local residents, which both allows dollars earned locally to stay local (creating the aforementioned economic force multiplier) and also allow local residents to work closer to home (meaning more time with their families/children and an overall better quality of life); and
- PLAs allow for the development of a better trained, more skilled local workforce while also ensuring that local workers receive a living wage (this is especially important given the high cost of living in Ventura County).

The draft PLA accomplishes these objectives by, among other things, including the following key provisions:

- A prohibition on strikes, sympathy strikes, picketing, work stoppages, slowdowns or other disruptive activity and processes for arbitrating worker grievances, disputes arising under the PLA and jurisdictional disputes between unions.
- Registration and dispatch of workers through the appropriate trade unions. Dispatch of workers to union contractors would be governed by pre-existing Master Labor Agreements (“MLAs”) between those contractors and the unions, which are incorporated by reference into the PLA. While non-union contractors would have to register their core employees (defined

as employees that have been on the contractor's active payroll for at least 90 of the 120 working days preceding award of the contract) with the appropriate union, upon request the union must alternate dispatch of the non-union contractor's core employees have the union's out-of-work hiring hall lists until up to three core employees have been dispatched. Thereafter, all additional employees in the affected trade or craft would be hired exclusively from the hiring hall out-of-work list.

- Payment of wages and benefits consistent with the applicable MLA and prevailing wage law.
- Provisions to encourage use of local workers. The PLA provides for tracking use of local workers and sets a goal that 60 percent of the total work hours will be performed by local residents. The unions will undertake best efforts to recruit Ventura County residents to their hiring hall lists and refer them to the jobs consistent with governing rules and legal obligations.
- The PLA also includes provisions to encourage hiring of veterans.

While the pros of constructing projects using a PLA are plenty, we also recognize that there are arguments against the use of PLAs. However, the County has never constructed a project utilizing a PLA thus there is no collected and analyzed County-specific data on which we can rely to form an opinion moving forward. That is why the agreement before you is a **single pilot project**. It is also why our request includes a directive to staff to prepare a cost and performance study following the completion of the project. This will provide the concrete data needed for our Board to make future determinations as to whether or not to use PLAs moving forward.

For this cost and performance study, we ask staff, following completion of construction, to bring back an objective study that will provide the Board of Supervisors with accurate data for analysis/evaluation of the PLA and potential negotiation of a future Community Workforce Agreement. The following elements are to be considered for this study: a subject matter expert that can provide data collection and analysis guidance, with data collection using LCP Tracker (Labor Compliance and Certified Payroll Software) or similar. This study should look at not only the overall costs of the project, but also project efficiency, local hire statistics and other economic factors.

This letter has been reviewed by the County Executive Office, County Counsel and the Public Works Agency. If you have any questions, please contact Supervisor LaVere at (805) 654-2703 or Supervisor Long at (805) 654-2276.

Sincerely,



Matt LaVere
Supervisor, First District



Kelly Long
Supervisor, Third District

Attachment:

Exhibit 1 - Sample Project Labor Agreement