



## Memorandum

**To: HONORABLE MAYOR AND  
CITY COUNCIL**

**From:** Councilmember Chappie Jones

**Subject: APPROVAL OF THE  
PROJECT LABOR  
AGREEMENT**

**Date:** October 15, 2018

**Approved:**

### RECOMMENDATION

Direct staff to make the following recommendations on items F & G in the staff memorandum:

#### F. Targeted Hiring

1. Direct Staff to provide an Informational Memorandum, annually for the life of the agreement, to the City Council with data on the City's ability to reach its targeted worker goals and any proposed actions that should be taken in the event the City is unable to reach its goals.

#### G. Small Business Exemptions

1. Direct staff to include in their reports back to Council, annually for the life of the agreement, with an assessment on the impact to small businesses for subcontracting opportunities.
2. As part of their report, staff is also directed to both present to and include input from my Small Business Advisory Task Force (SBATF) prior to the report proceeding to any Council Committee or the general Council.
3. Include in the agreement a provision that the Small Business Exemption will be reassessed annually and can be included in the agreement, at the City's discretion, if the PLA is shown to be disadvantageous to small business contracting opportunities.

### BACKGROUND

#### Targeted Hiring

An important benefit of the PLA proposal was the opportunity to hire and train segments of our community who have been locked out of opportunities to find employment. The PLA agreement lists numerous categories of underrepresented workers as defined in the staff memorandum. It is imperative that we do not miss this opportunity to include all of these categories of residents in a meaningful way.

In order to know if we were successful in achieving our stated desires to increase employment opportunities for hard to employ residents, we must have this data readily available in future staff reports on the progress of our targeted hiring programs.

**Small Business Exemption**

San Jose lags behind most major cities in California in the development and growth of small businesses in underrepresented communities. San Jose used to be a leader in promoting small, minority, and woman owned contracting. As a result of Proposition 209, the *Hi Voltage Wire Works vs. City of San Jose* ruling struck down the city's MBE/DBE program and hampered its ability to serve as a catalyst to advance disadvantaged business participation. The growth and development of small and disadvantaged businesses is not just the right thing to do, but it is the smart thing to do. The city benefits from creating economic prosperity in underserved communities. It is an opportunity for residents to not just earn an income, but to create wealth. The creation of wealth in the community translates to the creation of jobs, spending in the community, taxes from the community, and just as importantly, the creation of role models for young people to look up to and want to emulate.

Crafting a Small Business Exemption is vital to helping San Jose grow locally owned small businesses that provide valuable employment opportunities to local residents, many of which may meet the targeted hiring categories mentioned in the staff memorandum. In fact, a small business exemption would align with two of the top Council priorities:

- Council Priority #2: Local Hiring/Local Business/Apprentice Utilization Program
  - Create policies encouraging the hiring of local workers and contracting of local and small businesses, using the City of Sunnyvale's recently approved program as a model.
- Council Priority #5: Disadvantaged Business Enterprises
  - Explore expanding existing DBE program beyond Airport to other City departments and contracts.

San Jose is investing time, resources, and money to reduce the barriers for small business participation. By not having a small business exemption in the PLA agreement, we are potentially creating another barrier to subcontracting opportunities. It is critical to the success of our small business program that we lower barriers to entry, not raise them. If we do not include a mechanism to include a small business exemption if needed, we will make it more difficult to accomplish one of our city's top priorities, build a strong and dynamic small business community.

I understand that a small business exemption was unable to be reached in the initial negotiations. However, I believe that we are setting a national precedent, and it would be irresponsible for us not to include an opportunity to reevaluate the benefits of a small business exemption on an annual basis moving forward. We do not currently know the possible negative impacts on small businesses and DBEs in attaining bids on City contracts due to the implementation of PLAs.

As this policy treads new territory, we should allow for flexibility to ensure that small businesses and DBEs are well served. We should also follow our Council priorities by creating policies that encourage the hiring of local workers and contracting of local and small businesses while exploring the expansion of existing DBE programs to other City departments and contracts.