



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Raul Peralez  
Councilmember Magdalena Carrasco

**SUBJECT:** Private Development  
Workforce Standards

**DATE:** June 21, 2019

Approved by:

Date:

6/21/19

## RECOMMENDATION

Accept staff recommendation and

1. Direct staff to reconvene with labor representatives to produce an agreed upon list of potential consultants,
2. Request that the City Attorney's Office provide guidance by the June 25th council meeting on whether the City can sole source from the aforementioned list using the scope of work as defined in section 14.10.220.c.2 of the proposed ordinance, and if not,
3. Direct staff to issue a Request for Proposal (RFP) for a consultant contract to conduct a financial infeasibility assessment, using the scope of work as defined in section 14.10.220.c.2 of the proposed ordinance.

## DISCUSSION

Thank you staff for the supplemental memorandum sharing the reasoning why the Office of Economic Development (OED) has opted to contract with Keyser Marston for a financial infeasibility assessment. While staff's intention may seemingly be reasonable, it does not fully comply with the April 3, 2018 council direction that was quoted within the supplemental memo itself:

*"Objective evidence must include a study by an independent third party, such as Keyser Marston or EPS. The parties will agree to a list of potential consultants as part of this negotiation, but City staff will be responsible for selecting and retaining a consultant from the list."*

It has come to our attention that the highlighted language in which all parties were to agree on a list *first* was not accomplished. This troubles us as it does not make sense why a competitive contract was awarded to a party from an agreed upon list without all the parties first coming to an agreement on a list to work off on? It seems this was a classic case of the cart coming before the horse. Now with sudden urgency that an economic downturn is around the corner, it feels that we are simply defaulting to an existing consultant for no other reason than convenience.

As the outcome of this study may have a resounding impact to specific or even all stakeholders in the development community here in San José, there should be confidence in the process to select the party that is conducting this study. At this moment, we do not feel confident in our process thus far. Therefore, we should uphold both the spirit and letter of our original direction and ensure that this process is indeed transparent and competitively fair.

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