



COUNCIL AGENDA: 4/3/18
FILE NO: 18-447
ITEM: 3.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jon Cicirelli

**SUBJECT: REPORT ON COMMUNITY
WORKFORCE AGREEMENT
NEGOTIATIONS**

DATE: March 29, 2018

Approved

D. D. S. L.

Date

3/29/18

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

The purpose of this memorandum is to inform Council of the status of negotiations regarding the establishment of a Community Workforce Agreement (CWA) for City public works construction contracts and to provide, as requested, statistical information of construction contracts awarded over the past five years where bidding was required.

BACKGROUND

At the City Council meeting on October 24, 2017, City Staff was directed to negotiate with the Santa Clara & San Benito Counties Building and Trades Council around the following terms:

1. A wraparound multi project labor agreement known as a Community Workforce Agreement to include City-funded CIP public works construction contracts valued at \$6 million and higher;
2. A 5-year CWA with annual reporting requirements in the form of an information memo including metrics and goals, an 18-month check-in with the City Council, and an option to extend the CWA;
3. Include a good faith tiered targeted hire program for apprentices from underrepresented groups with a 25% good faith goal for apprentices from underrepresented groups;

4. Impose liquidated damages for any CWA work stoppages;
5. Exempt small business employers having subcontracts of \$250,000 or less;
6. Allow the first 35 workers employed by non-signatory contractors to come from its own core workforce prior to the imposition of any requirement to hiring workers from the union hall. To minimize risk of malfeasance, staff may consider measures to ensure accurate designation of core employees such as requiring non-signatory contractors to identify their core workforce at the time of bidding. Core employees of non-signatory employers shall not be required to pay union dues and fees;
7. Permit signatory and non-signatory contractors to select and directly hire all supervisors above general foreman; and
8. Non-signatory contractors shall compensate any workers for benefits in excess of the basic hourly wage in accordance with the applicable prevailing wage determination established by the Department of Industrial Relations pursuant to California Labor Code and the City's Prevailing Wage Policy.

The Mayor and Councilmembers received a letter dated December 10, 2017, from Josue Garcia, the CEO of the Santa Clara & San Benito Counties Building and Construction Trades Council requesting that the Council reconsider their decision to impose the various parameters listed above, particularly items 1, 5, and 6.

Negotiations

On January 11, 2018 City Staff met with Josue Garcia, the CEO of the Santa Clara & San Benito Counties Building and Construction Trades Council, and two additional trade representatives. Following a review and discussion of the Council direction listed above, it was determined by the Building and Trades Council that the terms imposed are not acceptable or conducive to establishing an Agreement for a CWA. The representatives reiterated their request from their December 10, 2017 letter to the Mayor and Council that the City Council reconsider their decision.

Without a willing partner, the City is unable to implement Council direction to establish a CWA for City public works construction contracts.

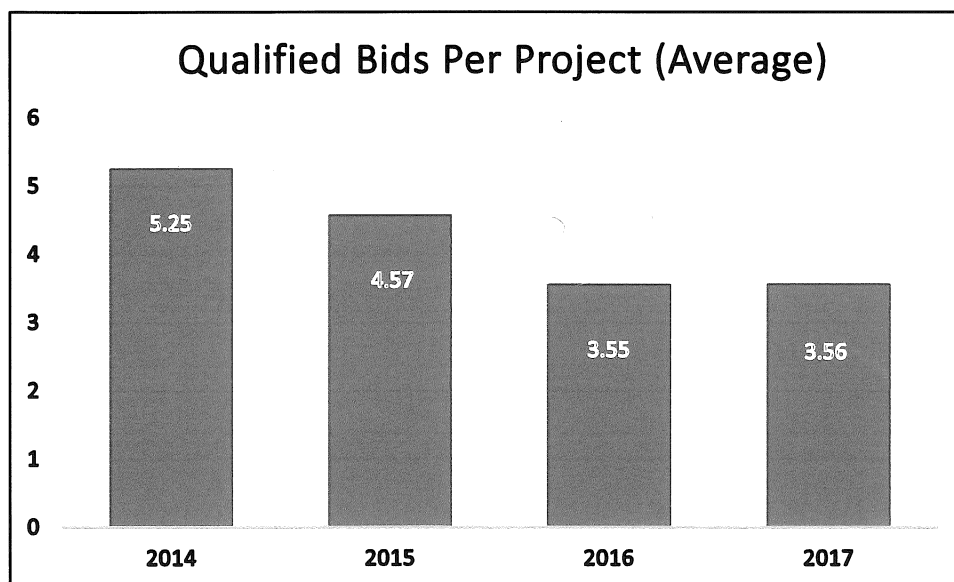
Statistical Information of Construction Contract Awards

In the approved Council direction on October 24, 2017, City Staff was also directed to provide the following information:

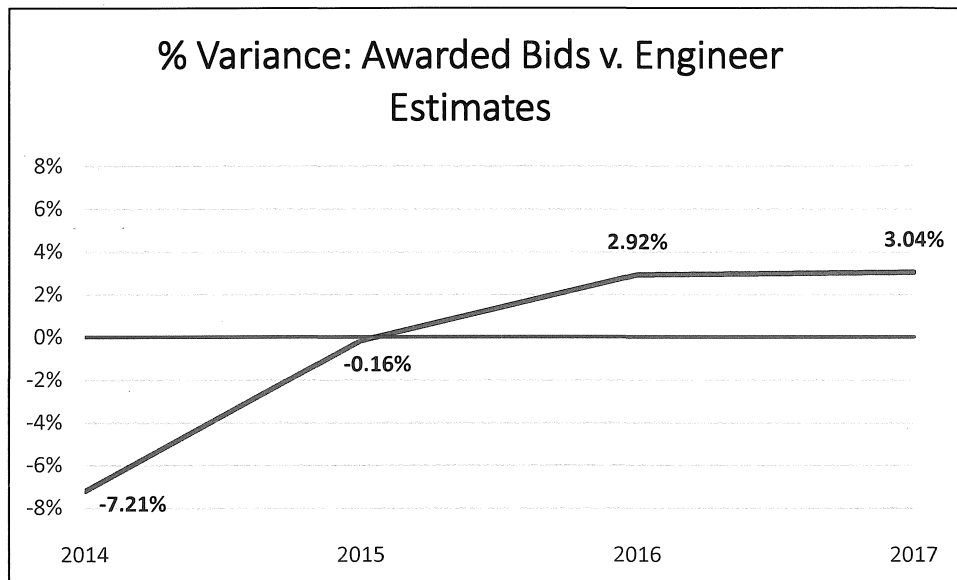
For the 336 construction contracts awarded over the past five years, provide a chart of statistics on bids for all projects where bidding was required, to include:

1. Number of qualified bids received for each project;
See Graph 1 below
2. Number of bids that exceeded Engineer's Estimate;
*See discussion below ***
3. Dollar variance and percentage variance of awarded bid, positive or negative, from Engineer's Estimate;
See Graph 2 below
4. Dollar variance and percentage variance of final actual project cost, positive or negative, from Engineer's Estimate included in bid award;
*See discussion below ***
5. Type of contractor to which bid was awarded – union or non-union, and whether contractor was a disadvantaged business; and
*See discussion below ***
6. For any non-union contractor awarded bid, the total reduction in take-home pay for employees that would have resulted were they to have had union dues deducted from their paychecks and the total cost of union benefit fund contributions that would have been required for the contractor.
*See discussion below ***

Graph 1:



Graph 2:



****Discussion Items 2, 4, 5, 6:**

These requested items require a significant amount of research and/or detailed analysis to examine each individual project. Given the absence of a willing partner to implement a CWA program, it is not recommended that additional resources be allocated to conduct further research on these topics.

Item 4: During the last 5 years Public Works has delivered 85% of projects at or below baseline budget.

Items 2, 5: These are not data points that staff specifically track and would require a physical search of records, which include more than 1,000 individual bids over the requested period.

Item 6: This not information that staff can access or is able to calculate.

/s/
JON CICIRELLI
Acting Director of Public Works

For questions please contact Christopher Hickey, Division Manager, at 408-535-8481