



# Memorandum

**TO:** COMMUNITY & ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** January 15, 2019

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Approved

/s/

Date

Nanci Klein for Kim Walesh

1/18/19

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**SUBJECT: CITY COUNCIL PRIORITY #2: LOCAL HIRE CONSTRUCTION  
INDUSTRY STUDY**

## **RECOMMENDATION**

Accept updated report on Council Priority #2- Local Hire/Local Business/Apprentice Utilization Program.

## **OUTCOME**

The Committee will be provided with information on Public Works procurement changes that support providing opportunities to small, local and disadvantaged businesses, the Public Work Academy on Contracting, outreach events, and data on local construction worker employment rates. Updates and annual assessments will be presented to the Community and Economic Development Committee in Fall 2019.

## **BACKGROUND**

At the June 23, 2015, City Council Priority Setting Session, the development of a Local Hiring/Local Business/Apprentice Utilization Program (also known as a “Good Jobs Ordinance”) was deemed Council’s third highest priority. Similar to the City of Sunnyvale’s “Good Jobs Program”, the intent of the proposed program would be to encourage the hiring of local workers and contracting with local and small businesses. It was believed that the development of a local hiring and economic opportunity program would help address the growing income inequality gap and ensure that projects in the City of San José create “living wage” jobs for the community. The City of Sunnyvale did consider a mandatory local hire policy, but ultimately decided on a “Good Faith” local hire policy.

At the March 7, 2017 and subsequent, Council Priority Setting Session, Local Hiring/ Local Business/ Apprentice Utilization Program was renumbered to the Council's second highest priority.

Staff initially reported to the Community and Economic Development (CED) Committee on May 23, 2016 (Item d4), and provided an update on October 24, 2016 (Item d3). While the construction industry in San José and the Santa Clara County region is very strong and skilled workers are in demand, information regarding the characterization of the residency of construction workers was not readily available. Staff concluded, with input from the City Attorney, that further study was needed to appropriately characterize the situation and whether a local hire program could be recommended and providing justification, if any, to potential constitutional challenges under the Privileges and Immunities Clause, the Commerce Clause and the Equal Protection Clause.

Additionally, Staff has been working on policies, agreements, and procedures related to hiring local contractors and local employees. These policies, summarized below.

**Project Labor Agreements:** On April 3, 2018, City Council directed the City Manager and City Attorney to negotiate a project labor agreement (PLA) with all affected labor unions within the Santa Clara and San Benito Building Trade Council. As of the writing of this memorandum, the PLA is still awaiting final signatures. With certain exceptions, the PLA will apply to most public works contracts awarded by the City that are over \$3,000,000.

Importantly, the PLA supports local hiring because a PLA is a multi-employer, multi-union pre-hire collective bargaining agreements providing for union recognition, compulsory union dues, and mandatory use of local union hiring halls prior to the hiring of any employees.

**Local/Small Business Preference:** Measure S was passed in November 2018, approving changes to the City Charter that allows the Director of Public Works opportunities to use a streamlined procurement process on public works projects of \$600,000 or less. The previous threshold was \$100,000. Staff is anticipating this will lead to increased attraction and opportunities for small businesses, who typically employ local workers, to bid on City work.

**Public Works Academy:** Staff has also developed, through Council Priority #5- Disadvantaged Business Enterprises, an outreach and engagement plan called the "Public Works Academy" that focuses on increasing opportunity awareness and education for small and local contractors. The Academy focuses on Public Works procurement of major and minor construction contracts, bidding requirements, prevailing wages, and working with the City. Other topics and policies are being developed.

**Trades Orientation Program (TOP)/ work2future:** Work2future's Trades Orientation Program (TOP), conducted in partnership with Working Partnerships USA, the regional Building Trades Council and Joint Apprenticeship Training Center, San Jose Evergreen Community College District and others, recruited and trained clients to be skilled trades workers in the core construction crafts, specifically targeting disadvantaged populations for screening and enrollment

in a pre-apprenticeship program. Since 2014, the operating budget, distributed in three grant rounds, was \$1,370,000 with funding from Prop 39 Clean Energy Jobs Creation. The Prop 39 grant term ended December 31, 2018 and the grant was not renewed. The program had 276 clients with 239 clients graduating (87%). Of the graduates, 123 (51%) had been placed in apprenticeships by the end of the grant and an additional 33 (14%) had been placed in other construction/energy efficiency employment. Placement support continues with the remaining graduates. Work2future is currently seeking to find an alternative funding source.

## **ANALYSIS**

Local Hire is the City Council's second highest priority and is a primary focus of Public Works, Office of Economic development, and other City departments. Retaining construction expenditures within the community, strengthening the local workforce, and correcting labor market imbalances are a key to the future of the City.

The Labor Market Study performed by Craft Consulting Group provided staff with baseline data on the imbalance in the construction labor market. Although Public Works has limited control in the overall economy, Public Works does have the ability to address imbalances in the construction industry due to the numerous construction projects awarded and built annually. The information shows the San Jose construction unemployment rate is outside the expected rate of 2.6%-4.6%, at 5.9% or 1.3% higher rate of unemployment than expected.

CCG's recommendations based on the findings from the labor market study analysis are a Voluntary First Source Hiring Program combined with all of the other concurrent efforts the City is working on to encourage local and local small business participation on Public Works projects. A well-designed voluntary First Source Hiring Programs is considered an effective tool for creating job opportunities for local residents. To be effective there needs to be a formal referral process in place along with a pool of qualified local workers for the construction industry to draw upon. Local residents would be given the first opportunity to apply for construction jobs on local public works projects.

Changes in the City's contracting policy provides the Public Works Director the authority to actively pursue an increase in local contractors, who typically hire more local workers, on minor public works construction contracts. Furthermore, the City recently negotiated a Project Labor Agreement for Public Works projects \$3 million or more with the Building Trades Council that require contractors to request workers from local union halls.

Although it may be an option for the near future, staff does not recommend a voluntary or mandatory local hire policy at this time. With procurement policy changes that have intended direct benefits to the local workforce, staff recommends monitoring and analyzing the impacts from the procurement changes. Data collection and analysis will include, but is not limited to, the following criteria:

- Number of local workers on Public Works Construction;
- Number of local workers performing work for local, regional, and outside the region prime and sub-contractors on Public Works Construction;
- Nature of job for local workers (i.e. skilled and/or unskilled)

Additionally, staff will conduct extensive stakeholder engagement with Santa Clara and San Benito Building Trade Council, Working Partnerships USA, and other partners. Staff concludes this body of work will take several months.

Staff will report back with an assessment of the data collection outlined above to the Community and Economic Development Committee in Fall 2019 to allow council consideration for a more formal program. However, implementing a more formal requirement would require resources to track and monitor as well as further review of legal consideration and may have unknown repercussions to other policies, including PLAs, Disadvantaged Business Enterprises and procurement changes.

### **Consultant Study Summary**

Craft Consulting Group (CCG) was tasked with performing a labor market analysis on the construction industry and related occupations in San Jose and Santa Clara County to support exploring the creation of a “Local Hire Policy” for public and private development and informing workforce development strategy. Including but not limited to:

- Assessment of construction employment patterns in the Region through data collection and analyses; develop realistic workforce projections for the City’s 5-year Capital Improvement Program; define and assess appropriate and feasible local hiring targets;
- Identify opportunities and provide recommendations to encourage greater participation by San Jose-area residents, including youth, women, veterans and other underrepresented or disadvantaged populations;
- Review and analyze policy, funding and implementation strategies for local hiring on a regional, state and national level including intended and unintended effects;
- Report of all findings including an Executive Summary and a detailed report, on the pros and cons of various approaches, including but not limited to best-practice approaches

In addition, CCG was requested to specifically study the following information:

- Demographic data regarding workers on public and select private construction projects, including a representative range of project types, and representing projects at different stages in the construction process (beginning, middle and end), including:
  - a. Location of home residence (by city and/or county)
  - b. Hourly wage paid for work on the project (straight time)
  - c. Benefits provided for work on the project (Health care and retirement)
  - d. Annual earnings

- e. Trade classification
- f. Years of experience in that trade
- g. Current enrollment as a State-registered apprentice
- h. Graduate of a State-registered apprenticeship
- i. Union affiliation
- j. Gender
- k. Race / Ethnicity (including detailed ethnicities)
- l. Commute data

### Private Development

Contractors and firms performing on private development are not subject to state or City prevailing wage requirements, nor are they required to provide the City with documentation when requested. Staff reached out to multiple contractors who have previously or currently worked on City projects in an effort to gain access to employment data. Staff was not successful in obtaining access to this data from any contractors. CCG did not perform this body of work due to the lack of accessible data.

### Labor Market Study

CCG collected labor market data from several sources (including the Census Bureau, California Employment Development Department, California Department of Industrial Relations, Bureau of Labor Statistics, and EMSI, a company providing labor market and economic data) to analyze the size, composition, and characteristics of the construction workforce in San Jose and Santa Clara County. The data examined the supply of construction workers in San Jose including the demographic make-up by gender, race/ethnicity, and age; occupational make-up by construction trade; wage and salary levels by building trade; and place of work and residency.

The consultant submitted a draft report to the City on January 8, 2019. The report was submitted as draft as staff has requested further analysis.

The data was analyzed at three levels; Local/regional Economy, Construction Industry, and San Jose Public Works Projects. The approach was to identify any potential issues at the Macro level (city, region) and the Micro level (census tracts, zip codes).

For the purpose of the study, CCG defined the local labor market as the City of San Jose and Santa Clara County and the regional labor market includes communities in adjacent counties within a 35-mile (or 40-45 minute) commute. CCG analyzed county-to-county commute patterns to determine the regional labor market, concluding the vast majority of workers in the regional labor market (84%) live in San Jose and Santa Clara County or communities in contiguous counties (Alameda, San Mateo, and Santa Cruz counties) that are within a 35-mile radius of San Jose.

In CCG's preliminary analysis, they found San Jose construction workers have higher levels of unemployment/underemployment, particularly for certain construction occupations and demographic groups, due to commuters from outside the regional labor market. Even during tight labor markets, where there are more workers than jobs, construction workers commuting from

outside the regional labor market only exacerbates local labor market supply/demand conditions. The following are evidence of the problem:

- Unemployment in the local construction industry (5.9%) is higher than the Nation's overall construction industry (4.3%); the local construction industry unemployment rate is outside the expected range (2.6%- 4.6%)
- There are more construction trade workers (25,218) living in San Jose than construction jobs (20,490). While this imbalance may be larger than expected, given San Jose's jobs/housing imbalance it is likely that most industries have more workers available in San Jose than jobs available.
- Commuters from outside the regional labor market are employed in local construction jobs that the resident workforce could fill.
- The percentage of construction workers on Public Works projects is less representative of the San Jose construction workforce.
- The classifications above "laborer" which require additional training such as electricians, carpenters, etc. appear to have the largest imbalance, where more workers are coming from outside the region.
- Contractors/subcontractors on Public Works Projects from outside the local market tend to hire workers that live outside of the local labor market, while local contractors tend to hire more local construction workers.

Based on the data provided by the consultants, there is an imbalance to the local construction labor market and there are steps the City may take to address this imbalance. To address the labor market imbalance, CCG reviewed and analyzed following seven policy options in the below table.

<b>Policy</b>	<b>Description</b>
<b>Local Hire (mandatory)</b>	Goal setting; requirement for contractors/firms to employ a percentage of workforce from within the City
<b>Local Hire (voluntary)-</b>	Goal setting; "good faith" efforts for contractors/firms to employ a percentage of workforce from within the City
<b>Targeted Hire (mandatory)-</b>	Requires contractors/firms hiring for a City job are required to hire workers living in a particular geographic area
<b>First Source Hiring (mandatory)-</b>	Requires contractors/firms utilize good faith efforts toward employing residents in new entry-level positions on applicable projects from bone-fide programs such as, but not limited to, work2future and the Santa Clara and San Benito Building Trades Council apprenticeship programs.
<b>Project Labor Agreements</b>	Multi-employer, multi- union collective bargaining agreements requiring union recognition, mandatory use of Hiring Halls, and prohibition of strikes or labor stoppages.

<b>Targeted Hire (voluntary)-</b>	Encourages contractors/firms hiring for a City job to in “good faith” hire workers living in a particular geographic area;
<b>First Source Hiring (voluntary)</b>	Encourages contractors/firms utilize good faith efforts toward employing residents in new entry-level positions on applicable projects from bone-fide programs such as, but not limited to, work2future and the Santa Clara and San Benito Building Trades Council apprenticeship programs.

The alternatives that either require or encourage specific goals for local hire would need further study to determine how they may impact the bid prices for San Jose construction projects as well as further study on any legal implications. Additionally, since the original recommendation of the development of a Local Hiring/ Local Business/ Apprenticeship Program, multiple policies, procedures, and programs have been developed to support local business, local/small business and hiring of local workers. CCG and staff believe these changes already implemented and in process will have an impact on the local construction labor market imbalance which is the primary reason staff is not making any specific additional recommendations for a local hire policy in this memorandum.

#### *Benchmarking other Jurisdictions*

A number of public agencies throughout the United States have enacted laws, policies and programs as a means to reduce local unemployment and improve the employment opportunities of local residents such as local hire and job training programs. These programs become attractive and popular especially during times of economic slowdowns and downturns, increased unemployment and declining incomes. When local unemployment is high, local hire programs can serve as a mechanism to direct local resources back to members of the community. Local hire and job training programs are often utilized for permanent and/or construction jobs arising from public works projects.

San Francisco has enacted a robust local hire program. In August of 1994, the San Francisco Board of Supervisors established local hiring requirements for City public work or improvement projects performed within the boundaries of San Francisco. The local hiring requirements were not mandatory; rather the program relied on “good faith efforts.”

Due to community concerns surrounding the effectiveness of the program, the San Francisco Redevelopment Agency and the City’s Office of Economic and Workforce Development commissioned a study in 2010 of San Francisco’s labor market in the construction industry including the review of comparative demographic data regarding workers on public projects, scope of past and future public construction work in San Francisco, comparative compensation on public projects, demographic data regarding apprenticeship programs operating in San Francisco and income and residency data regarding construction workers in San Francisco.

Based on this labor market information and the anticipated award of approximately \$27 billion in public work and improvement contracts over the next ten years, the San Francisco Board of

Supervisors on December 7, 2010, approved amendments to Chapter 6.22(g) of the San Francisco Administrative Code and adopted the San Francisco Local Hiring Policy for Construction. The “good faith” standard of local hiring on City-funded construction projects was replaced with mandatory local hiring levels.

As of March 2015, the mandatory participation level was at 30%. At that time, the review period and the 30% requirement was extended an additional 24 months (to March 2017) to allow for further analysis of the Policy’s impact including development on City-owned property. During this extended review period, the local resident apprenticeship requirement remains unchanged at 50%.

In San Francisco’s 2017-2018 Annual Report on Local Hiring Policy for Construction, San Francisco Public Works reported projects subject to the 20% local hiring requirement reported an overall local hiring performance of 40%; projects subject to the 25% local hiring requirement reported an overall local hiring performance of 26%; and for projects subject to the 30% local hiring requirement, an overall local hiring performance of 38% was reported.

The Cities of Berkeley, East Palo Alto, Lodi, Pasadena, Richmond and Stockton also have local hiring programs.

## **COORDINATION**

This memo has been coordinated with the Office of Economic Development and the City Attorney’s Office.

/s/

MATT CANO

Director of Public Works

For questions, please contact Christopher Hickey, Division Manager, Public Works Department at (408) 535-8481.