To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Community Workforce Agreement with Building Trades Council, et.al. for Construction Projects Over $500,000

RECOMMENDATION
Adopt a Resolution authorizing the City Manager to execute a contract with the Building Trades Council and twenty-two labor organizations regarding the provision of labor to construction projects in Berkeley with an estimated value in excess of $500,000 for a three-year term that will expire June 30, 2020.

FISCAL IMPACTS OF RECOMMENDATION
By mutual consent of the City of Berkeley and the Building Trades Council and twenty-two labor organizations (hereafter the Parties), the proposed three-year Community Workforce Agreement (CWA) will apply to construction projects built within the City limits whose value, as estimated by the City, exceeds $500,000.

To cover the expenses related to the implementation and management of the local hiring program, each contractor and/or subcontractor shall contribute ten cents ($0.10) per hour worked or paid to each construction person performing work on the projects. These local hire funds shall be deposited in a City account to be used by the City at its sole discretion for implementation and management of the Agreement.

CURRENT SITUATION AND ITS EFFECTS
In an April 10, 2017 meeting, the Parties agreed the following new sections in their entirety (italicized below) shall apply to this updated version of the CWA, and that this Agreement will expire June 30, 2020.1

2.3.2 The Projects include work necessary for the Projects and/or in temporary yards or areas adjacent to and dedicated to the Projects, and at any on-site batch plant(s) constructed solely to supply materials to the Projects, when those sites are dedicated exclusively to the Projects. This Agreement covers all on-site fabrication work over which the City, Contractor(s) or subcontractor(s) possess the right of control (including work done for the Projects in any temporary yard or area

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1 Community Workforce Agreement 2017 - 2020
established for the Projects.) *This Agreement also covers all off-site fabrication work traditionally performed by the Unions that is part of the Projects, provided such off-site fabrication work is covered by a provision of a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.*"

4.1.4 *In the case of nonpayment of trust fund contributions on the Projects, the Union shall give the City and the Contractor 5 business days’ notice of the intent to withhold labor from the Contractor’s or their subcontractor’s workforce, during which time the Contractor shall have the opportunity to correct the default. In this instance, a Union’s withholding of labor (but not picketing) from a Contractor who has failed to pay its fringe benefit contributions shall not be considered a violation of this Article.*"

By Resolution No. 65,157-N.S. on January 18, 2011, Council originally approved the CWA\(^2\) for a term of three years and authorized the City Manager to execute the Agreement with the Alameda County Building and Construction Trades Council, AFL-CIO and twenty-two labor organizations regarding the provision of union labor to City construction projects in excess of $1 million dollars.

On May 15, 2012, Council approved the City Manager’s recommendation to maintain the CWA’s $1 million dollar threshold for publicly funded construction projects for an additional twelve months to allow time to improve the CWA’s effectiveness and to evaluate outcomes, particularly jobs for Berkeley residents.

Council approved Resolution No. 67,111-N.S. on June 23, 2015 reducing the threshold from $1 million to $500,000, with that threshold continuing to be based on the engineer’s estimate and authorizing the City Manager to extend the then-current CWA for three years.\(^3\) The Parties, however, never fully executed the City’s proposed draft agreement. Since that time, the City has honored the terms of that Agreement and its key components that benefit the City. The Parties have also worked diligently and cooperatively to reach an accord on the added contract language and new expiration term noted above.

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\(^3\) Contract: Community Workforce Agreement with Building & Construction Trades Council, et al, for Capital Improvement Projects at or Above $750,000 [https://www.cityofberkeley.info/Clerk/City_Council/2015/06_Jun/Documents/2015-06-23_Item_52_Contract_Community_Workforce.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/06_Jun/Documents/2015-06-23_Item_52_Contract_Community_Workforce.aspx)
BACKGROUND
The purpose of the CWA is to support the City’s efforts to increase employment opportunities for workers who reside in Berkeley

1. to help increase training and employment opportunities for the City's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the City's schools

2. to promote efficiency of construction operations performed for and within the City of Berkeley, and

3. to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thus promoting the public interest in assuring the timely and economical completion of the projects.

Covered Work
The work covered by the Agreement includes: all on-site construction, demolition, alteration, painting or repair of buildings, structures, landscaping, temporary fencing and other works and related activities for the projects that is within the craft jurisdiction of one of the Unions and that is part of the projects, including, without limitation, pipelines, site preparation, survey work, demolition of existing structures and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. The scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published. The Agreement also applies to any start-up, calibration, performance testing, repair, maintenance, operational revisions to systems and/or subsystems performed after work is complete unless it is a new contract and falls below the dollar threshold of the Agreement, or is performed by City employees.

ENVIRONMENTAL SUSTAINABILITY
Supporting the hire of local area workers for construction projects may result in increased use of alternative transportation modes, and shorter distances traveled by those workers to job sites, which may in turn effect an accompanying reduction in the level of greenhouse gases generated per worker per trip. Reduction in the level of greenhouse gases is a goal of the City’s 2009 Climate Action Plan.

RATIONALE FOR RECOMMENDATION
Since its original January 2011 adoption, the City has operated under the guidelines of the CWA, which has continued to enhance local hiring efforts by ensuring a portion of workers on certain City construction projects are from the local area, and that City projects will not be affected by work stoppages due to labor issues. The new Agreement continues those efforts and clarifies the threshold.
ALTERNATIVE ACTIONS CONSIDERED
This Agreement has been and continues to be important to the City’s building and trades industry. No alternative actions are considered.

CONTACT PERSON
Phillip L. Harrington, Director, Department of Public Works (510) 981-6300

Attachments:
1: Resolution
RESOLUTION NO. ##,###-N.S.

COMMUNITY WORKFORCE AGREEMENT WITH BUILDING TRADES COUNCIL, ET.AL. FOR CONSTRUCTION PROJECTS OVER $500,000

WHEREAS, since its January 18, 2011 adoption, the Community Workforce Agreement has incorporated community interests by providing Berkeley residents access to quality union jobs with better standards for pay and benefits; and

WHEREAS, the City has operated continuously under the guidelines of the CWA, which has enhanced local hiring efforts by ensuring a portion of workers on certain City construction projects are from the local area, and that City projects will not be affected by work stoppages due to labor issues; and

WHEREAS, by Resolution No. 65,157-N.S. on January 18, 2011, Council approved the CWA for a term of three years and authorized the City Manager to execute the Agreement with the Alameda County Building and Construction Trades Council, AFL-CIO and twenty-two labor organizations regarding the provision of union labor to City construction projects in excess of $1 million dollars; and

WHEREAS, on May 15, 2012, Council approved the City Manager’s recommendation to maintain the CWA’s $1 million dollar threshold for publicly-funded construction projects for an additional twelve months; and

WHEREAS, on June 23, 2015, Council approved Resolution No. 67,111-N.S. reducing the threshold from $1 million to $500,000, with that threshold continuing to be based on the engineer’s estimate and authorizing the City Manager to extend the then-current CWA for three years; and

WHEREAS, the City has since that time honored the terms of that Agreement and its key components, and the Parties have worked diligently and cooperatively to reach an accord on newly added contract language and a new expiration term.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract with the Building Trades Council and twenty-two labor organizations regarding the provision of labor to construction projects in Berkeley with an estimated value in excess of $500,000 for a three-year term that will expire June 30, 2020.