

- c. Approve First Amendment to Agreement with IHC, relating to providing mental health services, increasing the maximum contract amount by \$268,464 from \$121,132 to \$389,596, for the term January 1, 2016 through June 30, 2016, to add and adjust funding for the Full Service Partnership program, with no change to the term of the Agreement, that has been reviewed and approved by County Counsel as to form and legality.

18. Under advisement from February 23, 2016 (Item No. 15): Adopt Board Policy Resolution amending Board of Supervisors' Policy Manual section 5.7.5.4 relating to Project Labor Agreements, and direct the Clerk of the Board to include amended Policy in Board of Supervisors' Policy Manual. (Roll Call Vote) (Office of the County Executive) (ID# 80675)

19. Under advisement from February 23, 2016 (Item No. 8): Receive report from Administration relating to analysis of Educational Revenue Augmentation Fund contributions. (Office of the County Executive) (ID# 80314)
20. Under advisement from March 22, 2016 (Item No. 12): Adopt Resolution demonstrating the County's commitment to becoming a World Health Organization Age-Friendly Community. (Office of the County Executive)

Request from Administration to hold item to April 26, 2016.

21. Approve Request for Appropriation Modification No. 188 - \$1,227,689 increasing revenue and expenditures in the Santa Clara Valley Medical Center budget, relating to staffing for Medi-Cal 2020 Waiver. (4/5 Roll Call Vote) (Santa Clara Valley Health and Hospital) (ID# 80596)
22. Adoption of Salary Ordinance No. NS-5.16.129 amending Santa Clara County Salary Ordinance No. NS-5.16 relating to compensation of employees, adding one Assistant Nurse Manager position, eight Attending Psychologist positions, ten Clinical Nurse III or Clinical Nurse II or Clinical Nurse I positions, three Epic Senior Report Writer or Epic Report Writer II positions, three Health Education Specialist or Health Education Associate positions, ten Licensed Vocational Nurse or Medical Assistant positions, three Medical Social Worker II or Medical Social Worker I positions, two Nurse Coordinator positions, eight Nurse Practitioner positions, one Program Manager II position, one Public Communication Specialist position, one Quality Improvement Coordinator position, one Quality Improvement Manager position and three Senior Health Care Program Analyst positions in Valley Medical Center. (Santa Clara Valley Health and Hospital System) (ID# 80597)
 - Action to Introduce and Preliminarily adopt on April 12, 2016; Roll Call Vote to waive reading, Roll Call Vote to adopt.
 - Action for Final Adoption on April 26, 2016; Roll Call Vote to adopt.

County of Santa Clara
Office of the County Executive



80675

DATE: April 12, 2016

TO: Board of Supervisors

FROM: Gary A. Graves, Chief Operating Officer
 Jeffrey D Draper, Director, Facilities and Fleet

SUBJECT: Recommendations Related to Board Policy 5.7.5.4 - Project Labor Agreements

RECOMMENDED ACTION

Under advisement from February 23, 2016 (Item No. 15): Adopt Board Policy Resolution amending Board of Supervisors' Policy Manual section 5.7.5.4 relating to Project Labor Agreements, and direct the Clerk of the Board to include amended Policy in Board of Supervisors' Policy Manual. (Roll Call Vote) (Office of the County Executive)

COMMITTEE RECOMMENDATIONS

In response to the September 29, 2015 Board referral, Administration submitted a report to the Finance and Government Operations Committee on January 22, 2016 recommending the construction cost threshold for Project Labor agreements (PLA) be lowered from ten million dollars (\$10,000,000) to five million dollars (\$5,000,000). In addition, Administration recommended a separate socioeconomic program to be established as part of the PLA to offer training and opportunities to the disadvantaged and underrepresented populations within the County.

The Committee reviewed the report submitted by Administration and directed that the item be forwarded to the Board of Supervisors on February 23, 2016 with no recommendation and for discussion purposes only.

REASONS FOR RECOMMENDATION

In its February 23, 2016 meeting, the Board directed Administration to require the consideration of a Project Labor Agreement for all public works contracts over \$2,000,000 and to include a hiring program that (1) targets employment for current and past County clients, including but not limited to clients of Social Services, Reentry, and Foster Care, (2) to not include targeted hiring if prohibited by federal or state law or would jeopardize federal or state funding; and (3) provide that the Office of the County Executive may recommend individual exemptions to considerations/use of a PLA. In addition, the Board asked that staff

provide a report within 18 months regarding the progress of the targeted hiring program and whether the construction cost threshold of \$2,000,000 is appropriate.

Administration and representatives from Santa Clara & San Benito Counties Building & Construction Trades Council (SBTC) are currently working on a PLA template that includes a targeted hiring component for the Board's review and approval upon completion. Such template will expedite and streamline future PLA negotiations.

Current Board PLA Policy

Current Board policy section 5.7.5.4 requires that for projects estimated to have a construction component exceeding ten million dollars (\$10,000,000), the Agency/Department must prepare an analysis to determine whether usage of a project PLA will further the County's interest. For projects having construction costs below ten million dollars (\$10,000,000), agencies/departments may also evaluate whether there is a unique feature or requirement of a project (i.e. time sensitivity in maintaining or providing a vital government service) that would benefit from the use of a PLA.

Amendments to Board Policy

In response to the Board's direction, Administration is providing draft amendments to Board of Supervisors' Policy Manual section 5.7.5.4 relating to Project Labor Agreement (PLA) that lowers the PLA cost threshold to two millions dollars (\$2,000,000) and adds section 5.7.5.4.C relating to a Targeted Hiring Program that targets past and current clients of the County of Santa Clara Social Services Agency including but not limited to the Foster Care Program and the County's Reentry Program.

CHILD IMPACT

The recommended action will have no/neutral impact on children or youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

BACKGROUND

Project Labor Agreements

A PLA is a pre-hire collective bargaining agreement typically negotiated between a project owner, general contractor, and one or more labor organizations. A PLA is designed to eliminate potential delays resulting from labor strife, ensure a steady supply of skilled labor on the project, and provide a contractually binding means of expeditiously resolving worker grievances. Although PLA's can be quite complex, the basic exchange is that the union agrees not to strike while the project is being built and to use high-speed arbitration to resolve workplace disputes. The owner agrees to require all contractors to accept the PLA terms.

A public agency may enter into a PLA for purposes of constructing a project if the agency can demonstrate that the PLA furthers a legitimate government interest, such as preventing costly delays and assuring contractor's access to skilled craft workers. The local agency must make a record of its legitimate government interest for use of a PLA on a project by project basis.

Currently, the County of Santa Clara has five on-going projects with PLA's approved by the Board of Supervisors with a minimum construction cost threshold of \$10 million:

- \$350 million: Replacement of Bed Building #1 (BOS approval 2/24/2009)
- \$55 million: SCC - VMC Service Building Replacement (County Exec. Approval 2/3/2011)
- \$24 million: James Ranch Renovation and Expansion project (BOS approval 4/21/2015)
- \$20 million: SCC - VMC – Ancillary Building (BOS approval 6/9/2015)
- \$10 million: Berger 2 Seismic Upgrade (BOS approval 6/9/2015)

Past Board approved completed PLA projects:

- New Crime Laboratory (BOS approval 8/23/2005)
- Fair Oaks Valley Health Center (BOS approval 8/23/2005)
- Gilroy Valley Health Center (BOS approval 8/23/2005)
- Milpitas Valley Health Center (BOS approval 8/23/2005)

Targeted Hiring Program

The County of Santa Clara provides essential services to a large number of individuals within the County, who, because of lack of education, experience, or other socioeconomic factors, face significant barriers in finding meaningful employment. These individuals often become clients of the County of Santa Clara through the Department of Social Services, including Foster Care or participate in the County's Reentry Program. The unemployment rate for these individuals is higher than other County residents.

Under the Public Safety Realignment Act (AB109), approximately 6,000¹ individuals have re-entered into Santa Clara County communities since 2011. The Board of Supervisors established a cross-system reentry network to develop and implement a plan for the County that identifies comprehensive reentry and recidivism reduction strategies that address the needs of these individuals.

The construction industry is one of the few industries providing a path to middle-class careers for individuals without advanced degrees or facing other barriers to quality employment and is therefore a crucial partner in the County's quest to assist in the creation of

¹ FY 2016: Second Quarter Report - AB 109 and Reentry Services Report (PSJC)
 Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
 County Executive: Jeffrey V. Smith
 Agenda Date: April 12, 2016

economic opportunities within the County of Santa Clara for underrepresented workers. County-funded construction projects create hundreds of construction related work hours that could be filled by underrepresented workers who have completed State of California or local apprenticeship programs.

Providing economic opportunities for underrepresented workers in the construction industry by mandating the utilization of underrepresented workers who have completed an appropriate apprenticeship program on all County-funded construction projects appropriate for a project labor agreement would benefit not only the underrepresented worker but also the County of Santa Clara and the public at large.

CONSEQUENCES OF NEGATIVE ACTION

The proposed changes to the Board of Supervisors Policy Manual Chapter 5 would not be incorporated.

STEPS FOLLOWING APPROVAL

- The Clerk of the Board will notify Kyle Larson of the Office of the County Executive, and Ken Wong and Dave Snow of the Facilities and Fleet Department.
- The Clerk of the Board will incorporate the revised Policy into the Board of Supervisors Policy Manual.

ATTACHMENTS:

- Exhibit A - Revised Board Policy Sections 5.7.5.4 (Redline Copy) (PDF)
- Exhibit B - Revised Board Policy Sections 5.7.5.4 (Clean Copy) (PDF)
- Resolution to Amend Board Policy 5.7.5.4 and add 5.7.5.4.C (PDF)

EXHIBIT A

5.7.5.4 Project Labor Agreements

A Project Labor Agreement (PLA) is an agreement typically negotiated between a project owner and one or more labor organizations prior to award of a construction contract. A PLA is designed to eliminate potential project delays resulting from labor strife, ensure a steady supply of skilled labor on a project, and provide a contractually binding means of resolving worker grievances. Pursuant to a PLA, an owner agrees to require all contractors and subcontractors to accept the PLA's terms.

(A) Purpose

The purpose of this policy is to promote efficiency of construction operations during the County's construction of capital projects and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of projects.

The types of projects that are most amenable to PLA usage are large capital projects that have a substantial financial requirement, are technically complex, involve numerous contractors and employees in different trades, have critical time lines for completion, and require a skilled and properly-trained workforce to successfully complete the work in a proper and timely manner.

(B) Required Analysis

For projects that are estimated to have a construction component exceeding ~~ten-two~~ million dollars (~~\$2,000,000~~~~\$10,000,000~~), the Agency/Department must prepare an analysis to determine whether usage of a project PLA will further the County's interests, i.e., time sensitivity in maintaining or providing a vital government service. The analysis and ~~a~~ recommendation to enter or not enter into a PLA must

EXHIBIT A

be forwarded to the Board of Supervisors at the time the Board is requested to approve and adopt plans and specifications. The Office of the County Executive may recommend to the Board of Supervisors individual exemptions.

For capital projects having construction costs at or below ~~two~~ten million dollars (~~\$2,000,000~~\$10,000,000), agencies/departments may also evaluate whether there is a unique feature or requirement of a project (i.e., time sensitivity in maintaining or providing a vital government service) that would benefit from the use of a PLA. When staff determines that a County interest is furthered by implementing a PLA for a particular capital project, the recommendation will be forwarded to the Board of Supervisors for consideration.

Conceptual Principles related to PLAs are contained in the Administrative Guidelines and are incorporated and made part of this policy by this reference.

(C) Targeted Hiring

All County funded construction projects determined to benefit from a Project Labor Agreement (PLA) shall include a hiring program for underrepresented individuals in the field of local construction. The hiring program, shall include established utilization rates for hours to be performed by underrepresented workers who are graduates from a State and/or County approved apprenticeship and pre-apprenticeship program.

An underrepresented worker is an individual who prior to commencing work on a project, is a current or past County client, including but not limited to clients of Social Services, Reentry, and Foster Care.

EXHIBIT A

The hiring program shall not be included where prohibited by federal or state law or if its inclusion would jeopardize state or federal funding available for the project.

EXHIBIT B

5.7.5.4 Project Labor Agreements

A Project Labor Agreement (PLA) is an agreement typically negotiated between a project owner and one or more labor organizations prior to award of a construction contract. A PLA is designed to eliminate potential project delays resulting from labor strife, ensure a steady supply of skilled labor on a project, and provide a contractually binding means of resolving worker grievances. Pursuant to a PLA, an owner agrees to require all contractors and subcontractors to accept the PLA's terms.

(A) Purpose

The purpose of this policy is to promote efficiency of construction operations during the County's construction of capital projects and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of projects.

The types of projects that are most amenable to PLA usage are large capital projects that have a substantial financial requirement, are technically complex, involve numerous contractors and employees in different trades, have critical time lines for completion, and require a skilled and properly trained workforce to successfully complete the work in a proper and timely manner.

(B) Required Analysis

For projects that are estimated to have a construction component exceeding two million dollars (\$2,000,000), the Agency/Department must prepare an analysis to determine whether usage of a project PLA will further the County's interests, i.e., time sensitivity in maintaining or providing a vital government service. The analysis and recommendation to enter or not enter into a PLA must be forwarded to the Board of Supervisors at the time the Board is

EXHIBIT B

requested to approve and adopt plans and specifications. The Office of the County Executive may recommend to the Board of Supervisors individual exemptions.

For capital projects having construction costs at or below two million dollars (\$2,000,000), agencies/departments may also evaluate whether there is a unique feature or requirement of a project (i.e., time sensitivity in maintaining or providing a vital government service) that would benefit from the use of a PLA. When staff determines that a County interest is furthered by implementing a PLA for a particular capital project, the recommendation will be forwarded to the Board of Supervisors for consideration.

Conceptual Principles related to PLAs are contained in the Administrative Guidelines and are incorporated and made part of this policy by this reference.

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All County funded construction projects determined to benefit from a Project Labor Agreement (PLA) shall include a hiring program for underrepresented individuals in the field of local construction. The hiring program, shall include established utilization rates for hours to be performed by underrepresented workers who are graduates from a State and/or County approved apprenticeship and pre-apprenticeship program.

An underrepresented worker is an individual who prior to commencing work on a project, is a current or past County client, including but not limited to clients of Social Services, Reentry, and Foster Care.

EXHIBIT B

The hiring program shall not be included where prohibited by federal or state law or if its inclusion would jeopardize state or federal funding available for the project.

POLICY RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
AMENDING SECTIONS OF THE BOARD OF SUPERVISORS POLICY MANUAL
RELATING TO PROJECT LABOR AGREEMENTS**

WHEREAS, since 2004 the County of Santa Clara Board of Supervisors has required administration to consider the use of a Project Labor Agreement on all County funded construction projects over ten million dollars (\$10,000,000) and

WHEREAS, the County has entered Project Labor Agreements on a number of County-funded construction projects and found the existence of a Project Labor Agreement to benefit the County of Santa Clara by eliminating potential project delays resulting from labor strife, ensuring a steady supply of skilled labor on a project and provide a contractually binding means of resolving worker grievances;

WHEREAS, construction projects with construction costs that are less than ten million dollars (\$10,000,000) may also be time sensitive in terms of maintaining and/or providing essential governmental services and could similarly benefit through the use of a Project Labor Agreement; and

WHEREAS, balancing the administrative costs of a PLA with the threat to essential services that could arise if a County construction project of a smaller size was subjected to time details or labor disputes, it is in the County's best interest that a PLA shall be considered for all projects having construction costs over two million dollars (\$2,000,000); and

WHEREAS, the County of Santa Clara provides essential services to a large number of individuals within the County, who, because of lack of education, experience, or other socioeconomic factors, face significant barriers in finding meaningful employment. These individuals often become clients of the County of Santa Clara through the Department of Social Services, including Foster Care or participate in the County's Reentry Program;

WHEREAS, the unemployment rate for underrepresented workers (meaning individuals who are current or past recipients of services from the County of Santa Clara Social Services Agency including but not limited to Foster-Care programs, and the County's Reentry Program) is much higher than that of the general population of the County of Santa Clara; and

WHEREAS, under the Public Safety Realignment Act (AB109), approximately 6,000 individuals have re-entered into Santa Clara County communities since 2011. The Board of Supervisors established a cross-system reentry network to develop and implement a plan for the County that identifies comprehensive reentry and recidivism reduction strategies that address the needs of these individuals, including their need for employment;

WHEREAS, the construction industry is one of the few industries providing a path to middle-class careers for individuals without advanced degrees or facing other barriers to quality employment and is therefore a crucial partner in the County's quest to assist in the creation of economic opportunities within the County of Santa Clara for underrepresented workers; and

WHEREAS, County-funded construction projects create hundreds of construction related work hours that could be filled by underrepresented workers who have completed State of California or local apprenticeship programs; and

WHEREAS, providing economic opportunities for underrepresented workers in the construction industry by mandating the utilization of underrepresented workers who have completed an appropriate apprenticeship program on all County-funded construction projects appropriate for a project labor agreement would benefit not only the underrepresented worker but also the County of Santa Clara and the public at large;

WHEREAS, the Board of Supervisors seeks to obtain the benefits of a project labor agreement on more County-funded projects where appropriate and further seeks to increase the economic opportunities for current and past County clients, including but not limited to clients of Social Services, Reentry, and Foster Care and approves the creation and/or amendment of relevant policies and practices to achieve these goals;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, that Section 5.7.5.4 of the Board’s Policy Manual shall be amended as shown in Exhibit B:

BE IT FURTHER RESOLVED that Administration is to report back to the Board of Supervisors within 18 months regarding the progress of the hiring program for underrepresented workers and clarification relating to whether a construction cost threshold of \$2,000,000 is appropriate.

PASSED AND ADOPTED by the Board of Supervisor of the County of Santa Clara, State of California, this _____ day of _____, 2016 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSTAIN:

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



Nancy J. Clark
Lead Deputy County Counsel

ATTACHMENT TO THIS RESOLUTION:

- Exhibit A: Revised Board Policy Section 5.7.5.4 (Redline Copy)
- Exhibit B: Revised Board Policy Section 5.7.5.4 (Clean Copy)

Attachment: Resolution to Amend Board Policy 5.7.5.4 and add 5.7.5.4.C (80675 : Recommendations Related to Board Policy 5.7.5.4 - Project