6.22. INFORMATION ITEM - Receive an update on the Brand Refresh and Public Will Building.


7. REGULAR AGENDA

Administration and Finance Committee

7.1. ACTION ITEM - Consider and adopt proposed Policy on Community Workforce Agreements (implemented through Project Labor Agreements) to create pathways for underrepresented workers in our community to access careers in the construction industry. These agreements will apply to VTA construction contracts and allow VTA projects to move forward without labor disputes, in a timely and fiscally responsible manner.

Congestion Management Program and Planning Committee

7.2. ACTION ITEM - Adopt two additional One Bay Area Grant 2 criteria to comply with Metropolitan Transportation Commission's requirements for compliance with the California Surplus Lands Act and rewarding jurisdictions with adopted anti-displacement policies.

8. OTHER ITEMS


8.1.B. INFORMATION ITEM - Receive Silicon Valley Rapid Transit (SVRT) Program Update.

8.2. Chairperson's Report. (Verbal Report)

8.3. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

8.4. Unapproved Minutes/Summary Reports from VTA Committees, Joint Powers Boards (JPB), and Regional Commissions

8.4.A. VTA Standing Committees

8.4.B. VTA Advisory Committees

8.4.C. VTA Policy Advisory Boards (PAB)

8.4.D. Joint Powers Boards and Regional Commissions
BOARD MEMORANDUM

TO: Santa Clara Valley Transportation Authority
   Board of Directors

THROUGH: General Manager, Nuria I. Fernandez

FROM: Director of Business Services,, Director of Engr. & Trans. Infrastructure Dev.,
       Alberto Lara, Carolyn M. Gonot

SUBJECT: Community Workforce Agreements

Policy-Related Action: No Government Code Section 84308 Applies: Yes

ACTION ITEM

RECOMMENDATION:

Consider and adopt proposed Policy on Community Workforce Agreements (implemented through Project Labor Agreements) to create pathways for underrepresented workers in our community to access careers in the construction industry. These agreements will apply to VTA construction contracts and allow VTA projects to move forward without labor disputes, in a timely and fiscally responsible manner.

BACKGROUND:

In response to the Board of Directors referral at their April 7, 2016, VTA staff developed a policy related to Community Workforce Agreements for VTA construction projects with an estimated value at or above $2.0 Million.

Community Workforce Agreements will be implemented through Project Labor Agreements which purpose is to:

- Promote efficiency of construction operations;
- Provide orderly and peaceful settlement of labor disputes and agreements;
- Avoid labor work stoppages, strikes, or lockouts; and,
- Promote public interest of timely completion of the project.

The types of projects that are most suitable to PLA application are high-dollar, complex construction projects that involve numerous contractors, multiple trades and critical construction timelines. The Board of Directors adopted a PLA for the BART Silicon Valley Berryessa...
Extension (SVBX) project. The agreement is between VTA, the unions and the Santa Clara-San Benito Counties Building and Construction Trades Council and requires the contractors and their subcontractors to meet the pertinent terms of the PLA. As we learned on that project, the success of this approach depends on the partnerships with local jurisdictions and the building trades.

Construction is one of the few industries that provide a path to middle-class careers for individuals without advanced degrees and/or facing barriers to quality employment. Community Workforce Agreements serve as a bridge that connects the local workforce to local public investment. Los Angeles County Metropolitan Transportation Authority has implemented a policy that focuses on construction careers of disadvantaged worker communities in conjunction with PLAs.

**DISCUSSION:**

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. Currently, VTA does not have a policy regarding Project Labor Agreements or Community Workforce Agreements. Since a Community Workforce Agreement (CWA) is a PLA with targeted hiring programs that can promote local apprenticeship and training programs, VTA staff is recommending a policy for Community Workforce Agreements to benefit the public at large. The local agency must make a record of its legitimate government interest for use of a PLA, or in this case, a CWA, on a project by project basis.

The attached Board Policy would require a CWA for all VTA construction projects with an estimated construction value over $2.0 million 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, and (2) to not include targeted hiring if prohibited by federal or state law or if it would jeopardize federal or state funding.

VTA would be required under the policy to make a record for each construction contract estimated to cost $2.0 million or over, that there is a public interest for use of a CWA. The Administration & Finance Committee recommended all projects at or above $2.0 million in estimated construction value have a CWA. The committee requested if VTA staff determines a project with an estimated construction value at or over $2.0 million would not benefit from a CWA, VTA staff annually would bring these projects forward, to request an exemption from the Board. Projects with an automatic exemption include projects required for emergency repair or remediation. The committee directed staff to evaluate the policy including the process for excluding projects after the policy has been in place in about 2 years.

VTA construction projects create hundreds of construction related work hours that could be filled by underrepresented workers who have completed a State of California, local apprenticeship or pre-apprenticeship program. Providing economic opportunities for underrepresented workers in the construction industry by mandating the utilization of underrepresented workers who have completed an apprenticeship or pre-apprenticeship program on VTA-funded construction projects appropriate for a CWA would benefit not only the underrepresented worker but also the County of Santa Clara and the public at large.
Since 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. 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.

Because of the benefits of creating more economic opportunities in the construction industry, the policy would require that VTA construction projects determined to benefit from a CWA will include a hiring program for underrepresented individuals in the field of local construction. The hiring program will include established utilization rates for hours to be performed by underrepresented workers who are graduates from a State and/or County approved pre-apprenticeship programs. The utilization rates would be established based on the availability of hiring programs. Currently the County and the Santa Clara & San Benito Counties Building & Construction Trades Council have an established pre-apprenticeship training program.

ALTERNATIVES:

The Board could choose not to adopt the attached policy or revise other provisions in the attached policy.

FISCAL IMPACT:

Increased costs of construction could occur due to management by the contractor of the CWA. For projects valued at $5.0 or $10.0 million such additional management activities can be absorbed easier than in lower valued contracts.

Contract management activities could include:

• Project Management;
• Bonds and Insurance;
• Site conditions;
• Offices and supplies.

This would be a consideration in determining the legitimate public interest of a CWA for the project.

STANDING COMMITTEE DISCUSSION/RECOMMENDATION:

At the Administrative & Finance Committee meeting on August 18, 2016, staff presented the proposed CWA policy. Josué Garcia, CEO, Santa Clara and San Benito Counties Building & Construction Trades Council presented the process for which under-represented workers are trained into the pre-apprenticeship programs. The committee discussed the proposal. The committee discussed whether VTA staff comes annually to the Board for approval of projects that would have a CWA or if VTA requests approval for CWAs that staff proposes do not have the legitimate government interest for use of a CWA. The committee stated that VTA staff should evaluate the policy in two years in light of the discussion on process to exempt projects from CWA.
After, additional discussion, the Committee members included the following in the motion on the staff recommendation:

- Remove the term “locally funded”
- Add to evaluate the policy in two years
- Send the entire project list to the Board, but anything recommended by the GM to be excluded at or above 2 million need approval by the Board. The entire list will be sent for informational purposes with the action to approve the excluded list.

The motion passed unanimously.

Prepared by: Alberto Lara and Carolyn Gonot
Memo No. 5703

ATTACHMENTS:
- Attachment A - CWA Policy (10) AL JL_rev after AF (PDF)
- Attachment B - CWA Policy (12) FINAL (PDF)
1.0 Policy:
The Santa Clara Valley Transportation ("VTA") desires to adopt Community Workforce Agreements to promote careers in the construction industry for underrepresented workers and to allow VTA's locally funded construction projects to proceed without labor disputes, in a timely and economically efficient manner.

2.0 Scope:
This policy applies to VTA's locally funded construction contracts with an original estimate construction value at or above two million dollars ($2,000,000). VTA will analyze each project subject to this policy, on a contract by contract basis, to determine whether a Community Workforce Agreement (CWA) and/or a Project Labor Agreement (PLA) that includes targeted hiring provisions would further VTA's best interests. If it is determined that VTA's interest would not be advanced by the implementation of a CWA/PLA for a particular project over $2,000,000, staff will do the following: (1) present a list of all CWA/PLA recommended projects to the Board of Directors for informational purposes, and (2) forward a list of any projects not recommended for CWA/PLA to the Board of Directors for approval, and a list of any projects not recommended for approval CWA/PLA to the Board of Directors for approval.

Emergency repairs or remediation projects are excluded from this policy, prepare a resolution for Board action.

A CWA or a PLA with targeted hiring provisions would not be required for a construction contract where such inclusion would be prohibited by federal or state law, or if the inclusion would jeopardize state or federal funding available for the project, or if prohibited by contract with another public agency.

The types of projects that are most amenable to CWA/PLA usage are large construction projects that have a substantial financial requirement, are technically complex, involve multiple trades and have critical completion timelines.

Contractors and Subcontractors awarded construction projects that meet the application requirements of this policy must agree to enter into a CWA/PLA with targeted hiring provisions, as appropriate. A CWA or a PLA with targeted hiring provisions would not be required for a construction contract where such inclusion would be prohibited by federal or state law, or if the inclusion would jeopardize state or federal funding available for the project, or if prohibited by contract with another public agency.

3.0 Jobs - Community Workforce Coordinator:
In order to facilitate training and employment opportunities, and for projects in which the VTA Board has adopted a resolution finding that a CWA/PLA is in the best interest of...
COMMUNITY WORKFORCE AGREEMENTS

VTA, VTA will require that the Contractor cooperate with the Community Workforce Coordinator designate a jobs coordinator to facilitate the implementation of the targeted hiring requirements of this policy.

4.0 Targeted Hiring

All VTA funded construction projects determined to benefit from a PLA shall include, as a provision of the PLA, a hiring program for underrepresented individuals to be hired as State of California registered apprentices 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 local pre-apprenticeship programs, State and/or County approved apprenticeship or pre-apprenticeship programs.

5.0 Responsibilities:

The Engineering and Transportation Infrastructure Development (ETID) division of VTA, will ensure the scope of the project has been fully vetted. ETID will prepare appropriate documents for Board action, if needed.

The Procurement Contracts, & Materials Management (PCMM) department will ensure the CWA/PLA is included in bid documents where Board action has been taken. PCMM will also monitor the Contractor’s performance in meeting the terms of the CWA/PLA.

Real Estate and Joint Development staff will develop and implement similar procedures based on this policy.

6.0 Definitions:

6.1 Community Workforce Agreement

Community Workforce Agreement, as used in this policy, shall mean a type of project labor agreement negotiated between a construction project owner and one or more labor organizations prior to the award of a construction contract that is designed to target disadvantaged or underrepresented workers for training and hiring.

6.2 Project Labor Agreement

Project Labor Agreement, as used in this policy, shall mean an agreement negotiated between a project owner and one or more labor organizations prior to the award of a construction contract that are 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. PLAs may include

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provisions regarding training and hiring of targeted workers, similar to a community workforce agreement.

6.3 Contractor/Subcontractor

Means any individual firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a contract with VTA the Agency or any of its contractors or subcontractors or owner operators of any tier, with respect to the construction of any part of the project(s) under contract terms and conditions approved by VTA.

6.4 Underserved Worker

Means an individual who, prior to commencing work on a project, is a current or past recipient of Social, Public Services, such as Social Services, Reentry and Foster Care programs, or others such as those offered by Santa Clara County. It also includes veterans of U.S. military service, the homeless, unemployed or low-income individuals; at-risk youth, a survivor of human trafficking or who faces another identified barrier to secure employment.

6.5 Community Workforce Coordinator

Means the work2future Workforce Development Board, or another entity as determined by mutual written agreement of VTA and the Santa Clara and Benito Counties Building & Construction Trades Council. The Community Workforce Coordinator is responsible for maintaining an up-to-date list of Targeted Workers who are available for work with their current contact information, and will provide this list upon request to any contractor working under a CWA/PLA.

7.0 Summary of Changes:

New policy.

8.0 Approval Information:

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Valley Transportation Authority
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| Alberto Lara | Carolyn Gonot | Nuria I. Fernández |
| Director, Business Services | Director, Engineering & Transportation Infrastructure Development | CEO/General Manager |
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