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Agenda Date: 8/9/2016  
Agenda Placement: 9D  
Set Time: 10:00 AM  
Estimated Report Time: 1 Hour

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors

**FROM:** Lawrance Florin - Director  
Housing and Intergovernmental Affairs

**REPORT BY:** Lawrance Florin, DIR HOUSING AND INTERGOVERNMENTAL AFFAIRS - 253-4621

**SUBJECT:** Discussion on the Project Labor Agreement (PLA) and possible creation of an ad hoc committee of two Board members to participate/advise with/on the negotiations of the PLA.

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### **RECOMMENDATION**

County Executive Officer and Director of Housing and Intergovernmental Affairs requests the Board of Supervisors:

1. Provide direction to staff on key components of a Project Labor Agreement (PLA) before proceeding with negotiations; and
2. Discuss and possibly act on the creation of an ad hoc committee of two (2) Board members to participate/advise with/on the negotiation of a PLA.

### **EXECUTIVE SUMMARY**

On July 12, 2016, Staff and Craft Consulting Group presented the findings of the Napa County Labor Market Analysis of the construction industry following Board direction from a December meeting. The Board directed staff to both move forward with the creation of a first source hiring ordinance, and to proceed with negotiations on a "pilot" Project Labor Agreement that would cover work on the Staff Secure Re-Entry Facility. In order to proceed with these discussions staff is requesting the following:

1. Provide direction to staff on key components of what the Board would like to have contained within a Project Labor Agreement (PLA); and
2. Create an ad hoc committee of two members of the Board to participate in negotiations for the PLA.

### **PROCEDURAL REQUIREMENTS**

1. Staff report

2. Public comments
3. Discussion and direction to staff

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On December 15, 2015, in response to a future agenda item request made by Supervisor Luce at the September 15, 2015 regular Board meeting, staff made a presentation on Project Labor Agreements (PLAs). As part of that presentation staff and the board discussed the potential impacts on local hiring. It was discussed that if the Board intended to proceed with a local hiring ordinance in some form, that in order to create a defensible basis for such an ordinance, an assessment of the local labor market needed to be conducted.

On July 12, 2016 staff, with Craft Consulting Group, reported on the Labor Market Analysis of the Construction Industry in Napa County. The report determined that while Napa's labor market as a whole, and construction in particular, is thriving compared to other regions, efforts could be made to increase middle income employment opportunities for targeted sectors of the population. At the conclusion of that meeting, the Board:

1. Requested staff comprehensively analyze a First Source Hiring policy and return to the Board with a report on its possible implementations; and
2. Directed staff begin collecting labor data on Public Works construction projects; and
3. Directed staff to begin negotiations with Unions on a possible "pilot" PLA for the Staff Secure Re-Entry Facility.

Since that July meeting, staff has been reviewing language from PLAs drafted by other public entities and has set a meeting with the applicable union trades to take place after the August 9th Board meeting. The purpose of this agenda item is to request the Board provide clear policy goals and objectives for a Pilot PLA to enable staff to negotiate terms that will further the Board's policy direction.

According to Public Works, the Staff Secure Re-Entry Facility will go out to bid in November 2016 and begin construction in spring 2017.

### **KEY ELEMENTS OF A PLA**

Local union representatives provided staff with a Draft PLA with their requested language which staff used for this report. Below are the essential components within a PLA that Staff believes will impact the Board's previous stated goals of increasing local employment opportunities and not increasing project costs. The Draft PLA is attached and relevant sections are referenced below. The four key provisions in all of the PLA's that were provided to staff were as follows:

1. Purpose
2. Referral Process and Core Workers
3. Union fees and benefits provision
4. No strike provision.

### 1. Purpose

The Draft PLA, in its recitals, provides that the purpose of the PLA is to promote the efficiency of construction operations during the County's Construction Project(s) and to provide for peaceful settlement of labor disputes without strikes or lockouts. Identifying what specific policy goals the PLA is aiming to achieve is critical for staff to successfully negotiate a PLA with Unions which meets the Board's policy goals. The Draft PLA has a very specific purpose, which is to promote efficiencies of construction operations during a County Project. If a key objective for the Board is to increase employment opportunities for local residents the Board may wish to consider including a statement of purpose to further this mission.

**Staff Recommendation** - Staff requests that the Board set-up as a primary purpose of a PLA, to increase the number of local Napa County residents who are employed as a result of entering into a PLA and include this statement in the "purpose" section of the agreement.

### 2. Referral Process and Core Workers

The Draft PLA the county reviewed does not provide any language that ensures locals are being prioritized in existing union hall hiring practices. While Union representatives have stated that a PLA must comply with enforceable local hiring ordinances that set mandatory percentages of hours to be worked by locals, the County looked into this option and determined the County did not have the basis to create such an ordinance. While other jurisdictions include language requiring "good faith efforts" towards local hiring, these provisions create no change in the actual referral process used by the unions. The First Source Hire Ordinance discussed with the Board on July 12, 2016, even if enacted, will not create a mandatory requirement to hire local residents and may not, in and of itself, result in additional local residents being hired. Moreover, the First Source Hiring pipeline is unlikely to be in place in order to make referrals for the Staff Secure Re-Entry Facility even if an ordinance is adopted prior to awarding the contract.

The Union's draft PLA requires all tradespeople to come from the applicable union hiring hall. (Article 8.1) The only limitation to this requirement is that supervisors above the level general foreman can be hired without going through the union hiring halls. (Article 8.2) These requirements would apply not only to the general contractor, but also all sub-contractors. If this language were adopted, local non-union subcontractors, which is the bulk of Napa County's contracting community, would not be able to utilize their existing employees on this project. The inability to use their own workforce is a major reason many non-union contractors and subcontractors do not bid on projects with a PLA.

**Staff Recommendation** - Give direction to staff to:

1. Ensure that the PLA contains a requirement that unions provide to contractors the names of Napa County residents that could be hired by contractors working on the Staff Secure Re-Entry Facility project and that contractors be allowed to hire these local residents if they wish; and
2. Create a provision in the PLA that allows Napa County contractors to utilize their existing workforce on this project.

### 3. Union Fees and Benefits

Cost impacts of a PLA continue to be difficult for staff to identify. While there is no reputable, objective study we can cite, through research and conversations with other jurisdictions, staff has identified provisions in the Draft PLA that could have the potential to reduce the bidding pool. Staff believes that the more policies that dis-incentivize

contractors from bidding will result in a smaller bid pool, which will ultimately increase costs.

**Staff Recommendation** - Work to eliminate from the PLA provisions that would create a disincentive for contractors to bid on the project.

#### 4. No Strike Provision

The primary benefit for a local jurisdictions to enact a PLA is to ensure the efficient and timely completion of public projects with easy resolutions to labor disputes. Large projects that require multiple trades/crafts, and thus unions, increase the risk of inter-labor disputes. Further, projects, like stadiums, bridges with toll, airports, that, if delayed, will also delay the financing for the project, increase the risk of increasing costs for the jurisdiction if it is not completed efficiently and within the construction schedule. Napa County has two large projects in its near future, the Staff Secure Re-Entry Facility and construction of a New Jail.

**Staff Recommendation** - If the County enters into a PLA, staff believes the County should get the benefit of a clear, enforceable no strike clause that will provide additional assurance that the project will not be delayed by work stoppages. Staff is in the process of comparing no strike clauses from other jurisdictions to ensure the County utilizes the strongest possible language.

### SUPPORTING DOCUMENTS

A . Draft PLA

CEO Recommendation: Approve

Reviewed By: Molly Rattigan