



CITY COUNCIL STAFF REPORT



September 12, 2023

ITEM TITLE

Labor Relations: Consideration of Ordinances Relating to Contractor Transparency, Project Labor Agreements, and Traffic Control Worker Minimum Wages; a Resolution Adopting a Project Labor Agreement Policy; and Discussion of Healthcare Worker Minimum Wages

Report Number: 23-0244

Location: No specific geographic location

Department: City Manager

Environmental Notice: This activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act (“CEQA”) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

- A) Place an ordinance on first reading amending Chapter 2.59 and adding Chapter 2.71 “Project Labor Agreements” of Title 2 of the Chula Vista Municipal Code **(First Reading)**.
- B) Approve a resolution adopting a Policy relating to Project Labor Agreements on City Capital Improvement Projects.
- C) Place an ordinance on first reading adding Chapter 2.72 “Construction Contractor and Subcontractor Reporting” to Title 2 of the Chula Vista Municipal Code **(First Reading)**.
- D) Place an ordinance on first reading adding Chapter 2.73 “Traffic Control Worker Minimum Wage” to Title 2 of the Chula Vista Municipal Code **(First Reading)**.
- E) Discuss adding Chapter 2.74 “Healthcare Worker Minimum Wage” to Title 2 of the Chula Vista Municipal Code.

SUMMARY

On May 9, 2023, the City Council Labor Relations Ad Hoc Subcommittee issued a report on findings and recommendations to the City Council. A referral was made to the City Manager for consideration, implementation, negotiation, and a report back to the City Council within 90 days on the recommendations of the Ad Hoc Subcommittee. That report was provided to the City Council on August 8, 2023.

At the August meeting, City Council directed staff to return with implementing ordinances relating to contractor transparency, project labor agreements, and minimum wages for traffic control workers in the

public right-of-way. At the same meeting, the City Council separately directed staff to return with an ordinance establishing a minimum wage for healthcare workers. This item is responsive to the August 8 referrals.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with CEQA and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On March 28, 2023, the City Council approved the establishment of a Labor Relations Ad Hoc Subcommittee comprised of Deputy Mayor Jose Preciado and Councilmember Andrea Cardenas (the “Labor Relations Subcommittee”). The Labor Relations Subcommittee held a series of meetings with various stakeholders to discuss issues relating to safety conditions and enhancements for traffic control workers, the potential need for a contractor transparency ordinance, and the process to adopt a citywide project labor agreement (“PLA”). On May 9, 2023, the Labor Relations Subcommittee issued a report and recommended that the City Council refer the following to the City Manager’s Office:

1. Draft a municipal code amendment to address safety conditions and enhancements impacting traffic control workers.
2. Develop a labor transparency ordinance to be consistent with similar policies across the County of San Diego, and identify City needs for ordinance enforcement.
3. Formally engage in the process to develop a citywide Project Labor Agreement with input from the San Diego Building and Construction Trades Council.

The City Council supported the recommended referral at its May 9, 2023 meeting and directed the City Manager to return with a report on implementation within 90 days.

Staff returned with that report on August 8, 2023. At the August meeting, staff provided an overview of work to date, potential policy considerations, and draft language ([view staff report here](#)). The City Council then directed staff to return with the following items on September 12, 2023:

1. A municipal code amendment requiring PLAs for projects that a) have a construction cost at time of contract award of \$1,000,000 or more and are constructed on City-owned property; or b) are housing projects receiving \$5,000,000 or more in funding from the City.
2. A municipal code amendment addressing labor transparency.
3. A municipal code amendment addressing safety conditions and enhancements by establishing a traffic control worker minimum wage.
4. A municipal code amendment establishing a minimum wage for healthcare workers.

Since the August meeting, staff has continued to engage with stakeholders, including, but not limited to the following:

- Building Industry Association
- The City’s Development Oversight Committee
- Laborers’ International Union of North America (“LiUNA”) Local 89 San Diego
- Southwest Mountain States Regional Council of Carpenters Local 619 San Diego
- Communication Workers of America District 9
- Utility Providers (SDG&E, Cox Communications, AT&T, Verizon, Wyyerd, Sweetwater Authority, Otay Water District)
- Service Employees International Union – United Healthcare Workers West (SEIU-UHW)

Project Labor Agreement (PLA)

At the August 8 meeting, staff presented an overview of PLAs and recommended an ordinance requiring PLAs for a) all projects constructed on City-owned property with a construction cost at time of award of \$1,000,000 or greater and b) all subsidized housing projects receiving City funds of \$5,000,000 or more. Staff also recommended limiting the scope of a proposed Citywide capital improvement project PLA requirement to only those projects with a construction cost at time of award of \$1,000,000 or more.

Next Steps

Staff recommends approving Resolution B adopting a new City Council Policy, “*Project Labor Agreements for City Capital Improvement Projects*” (Attachment 1) and placing Ordinance A amending CVMC Chapter 2.59 and adding CVMC Chapter 2.71 “Project Labor Agreements” on first reading.

With adoption of Resolution B, staff will continue negotiating a Citywide PLA consistent with the new Policy.

Contractor Transparency Ordinance

At the August 8 meeting, staff presented a draft “Construction Contractor and Subcontractor Reporting” ordinance (the “Contractor Reporting Ordinance”). At that time, stakeholder outreach was ongoing, and since that meeting staff has continued to work with interested parties and further refine the proposed ordinance.

Attachment 2 provides a redline strikeout comparison of the current draft Contractor Reporting Ordinance with the version presented on August 8th. As drafted, the Contractor Reporting Ordinance would apply to all building, mechanical, plumbing, electrical, demolition, land development, grading, construction, utility, or fire permits issued for projects of a certain size.

Impacted projects would be limited to residential or mixed-use developments consisting of twenty (20) or more dwelling units or non-residential developments that propose 20,000 square feet or more of tenant improvements or additional new gross floor area. The ordinance would also apply to utility permits in the City right-of-way. The Contractor Reporting Ordinance would not apply to an individual constructing an ADU, adding on-to or altering their home, modifying their driveway, etc. Emergency utility work would also be exempt.

For those projects subject to the ordinance, and those permits applicable to those projects, the permittee would have an affirmative duty to provide the following information to the City, under penalty of perjury:

1. The identity of each Contractor and Qualifying Subcontractor that will perform work subject to a permit inspection, whether a sole proprietor, independent contractor, company, or other entity.
2. For each Contractor and Qualifying Subcontractor so identified:
 - a. Scope of Inspected Work to be performed.
 - b. State contractor's license number, license category, and license expiration date, if a license is required by the California State Licensing Board to perform the identified Scope of Inspected Work.
 - c. City business license number and expiration date.
 - d. State and federal tax identification numbers.
 - e. Valid worker's compensation insurance information, including policy number and expiration date.
 - f. Any previous and/or pending enforcement actions resulting from violations of state or federal labor law, along with any penalties paid, criminal convictions, or judgements related to the provisions of the California Labor Code or the Federal Labor Standards Act. Permittee may provide a sworn attestation from a Contractor or Qualifying Subcontractor to satisfy this requirement.

The permittee will also be required to update the information reported to the City, should it change. The permittee will have 72 hours to notify the City after they become aware of the change. Such changes will be made online using the City's online permitting system.

As described in the August 8 report, enforcement of the proposed ordinance will be folded into the regular daily operations of the Development Services and Engineering Departments by tying the reporting requirement to permitted work that is subject to inspection by the City. As part of the regular inspection process, City inspectors will be able to view the Contractor and Subcontractor information reported for the work they are inspecting, and if the reporting is incorrect or incomplete, they will fail that specific inspection. Work on that item will cease until the inspection can be rescheduled and the permittee will be charged a reinspection fee.

Should more than one violation of the ordinance occur on the same permit, the Director of Development Services would have the authority to issue a stop work notice on that particular permit.

The August 8th version of the Contractor Reporting Ordinance authorized permit revocation in cases of continued non-compliance; however, staff recommends removing this draft provision from the final ordinance. Complexities related to building code requirements and permit streamlining mandates from the state make this provision impractical to implement.

In order to allow time to complete the systems programming needed to implement the proposed ordinance, an effective date of January 1, 2024 is currently contemplated. A 6-month safe harbor period, in which no enforcement action is taken is recommended. If adopted, enforcement would begin on July 1, 2024.

Next Steps

Staff recommends placing Ordinance C adding CVMC Chapter 2.72 "Construction Contractor and Subcontractor Reporting" on first reading.

Traffic Control Worker Minimum Wage

Per the City Council's direction, staff has prepared a draft ordinance establishing a traffic control worker minimum wage tied to prevailing wage, similar to the ordinances adopted in the County and City of San Diego. The draft ordinance was tailored to match the style and structure of the CVMC and for consistency with the proposed healthcare worker minimum wage ordinance. (e.g., inclusion of a provision addressing retaliation that is not in the County or City of San Diego ordinances) (the "Traffic Control Worker Minimum Wage Ordinance").

Unresolved Terms

The draft ordinance includes an exemption for work completed by employees of gas, electric, telephone, cable, or fiber utility companies, where the employee performs work for one hour or less per workday, or one hour or less per shift. LiUNA has indicated that they only support this exception for gas and electric utilities and requests that the exception be narrowed accordingly.

Next Steps

Staff recommends placing Ordinance D adding CVMC Chapter 2.73 "Traffic Control Worker Minimum Wage" on first reading.

If adopted, staff will return with an implementation plan for enforcement of this ordinance for Council consideration.

Healthcare Worker Minimum Wage

On August 8th, the Council directed staff to return on September 12th with an ordinance establishing a healthcare worker minimum wage, similar to a local initiative effort and an ordinance adopted by the City of Los Angeles. Per this direction, staff has prepared a draft ordinance establishing a healthcare worker minimum wage of \$25 per hour (the "Healthcare Worker Minimum Wage Ordinance", Attachment 3). As with the Traffic Control Worker Minimum Wage Ordinance, the draft Healthcare Worker Minimum Wage Ordinance was tailored to match the style and structure of the CVMC and for consistency with the Traffic Control Worker Minimum Wage Ordinance. Additional edits were made to improve transparency and ease of implementation.

Next Steps

Staff recommends the City Council hear public comments on this item and provide direction.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff has been informed that Councilmember Chavez has a business position and/or income source related to the healthcare industry, which may present a potential conflict of interest; as a result, she will recuse herself from participation in the discussion regarding the draft healthcare worker minimum wage ordinance.

CURRENT-YEAR FISCAL IMPACT

There is no quantifiable current-year fiscal impact as a result of:

1. Placing Ordinance A, amending CVMC Chapter 2.59 and adding CVMC Chapter 2.71 “Project Labor Agreements”, on first reading;
2. Approving Resolution B, adopting a policy relating to “Project Labor Agreements on City Capital Improvement Projects”;
3. Placing Ordinance C, adding CVMC Chapter 2.72 “Construction Contractor and Subcontractor Reporting”, on first reading; or
4. Discussing adding Chapter 2.74 “Healthcare Worker Minimum Wage” to the CVMC.

As described in the August 8 report, there is ample evidence indicating that PLAs contain costs, just as there is ample evidence indicating that PLAs result in higher construction costs. Actual fiscal impacts will likely vary based on workforce market conditions.

Adopting Ordinance D, adding CVMC Chapter 2.73 “Traffic Control Worker Minimum Wage”, may have current-year fiscal impacts related to program enforcement. If the Council places this item on first reading, staff will return with a recommended enforcement plan, including an analysis of related fiscal impacts.

ONGOING FISCAL IMPACT

There are no quantifiable ongoing fiscal impacts as a result of:

1. Placing Ordinance A, amending CVMC Chapter 2.59 and adding CVMC Chapter 2.71 “Project Labor Agreements”, on first reading;
2. Approving Resolution B, adopting a policy relating to “Project Labor Agreements on City Capital Improvement Projects”;
3. Placing Ordinance C, adding CVMC Chapter 2.72 “Construction Contractor and Subcontractor Reporting”, on first reading; or

As described in the August 8 report, there is ample evidence indicating that PLAs contain costs, just as there is ample evidence indicating that PLAs result in higher construction costs. Actual fiscal impacts will likely vary based on workforce market conditions.

Adopting Ordinance D, adding CVMC Chapter 2.73 “Traffic Control Worker Minimum Wage”, may have ongoing fiscal impacts related to program enforcement. If the Council places this item on first reading, staff will return with a recommended enforcement plan, including an analysis of related fiscal impacts.

Fiscal impacts of establishing a healthcare worker minimum wage have not been analyzed. Should City Council direct staff to return with a Healthcare Worker Minimum Wage Ordinance for adoption, staff would endeavor to provide additional fiscal impact analysis with that item.

ATTACHMENTS

1. City Council Policy, “*Project Labor Agreements for City Capital Improvement Projects*”

2. Redline strikeout of Contractor Reporting Ordinance, compared with August 8th version
3. Draft Healthcare Worker Minimum Wage Ordinance

Staff Contact: Tiffany Allen, Assistant City Manager