

DEVELOPMENT OF COUNTYWIDE COMMUNITY WORKFORCE AGREEMENT ORDINANCE AND PROJECT TEMPLATE



Santa Barbara County Board of Supervisors - August 17, 2021

Why are we here?

- In April, 2019 your Board directed staff to draft an ordinance governing the use of CWA on public projects
- In addition, direction was given to the General Services and Public Works Departments to negotiate a template of terms to be used in the framework of future project-specific CWA with the Tri-County Building and Construction Trades Council (TCBT)



Overview

- What is a CWA?
- 2014 Board Conceptually Approved Project Stabilization Agreement (PSA)
- Balancing Concerns
- City of Santa Barbara Process
- Decision Points
- Coordination and Process



What is a CWA?

- A CWA is a contractually binding negotiated agreement between a project owner and the building and construction trade unions
- CWAs require that all contractors working on a project adhere to a collective bargaining agreement
- There are no guarantees that a CWA will increase or decrease construction costs, nor attract or detract local labor beyond “Good Faith” efforts
- On public projects all applicable state and federal bidding statutes and regulations must be followed



What is a CWA?

- Used in the construction industry to set the terms and conditions of employment on large projects of long duration and design complexity
- Allow for the expeditious resolution of disputes that can arise in the course of the project, helping to ensure that the project is delivered on time
- May include provisions that seek to improve conditions on the worksite in the areas of safety and quality standards
- Provide benefits to the community by including jobs and training opportunities for disadvantaged workers



Potential benefits

- May assure such things as a steady supply of skilled labor, commensurate benefits, and work rules across multiple crafts.
- Allow for the timely resolution of labor disputes
- Community benefits may include high paying jobs and training opportunities for disadvantaged local workers
- Often contain language defining health and safety provisions, safety practices, and minimum security requirements
- Allow non-union contractors to bring core workers with them



Potential disadvantages

- Place additional burdens on nonunion contractors, particularly smaller local contractors, when bidding on projects
- May reduce the number of bids on a project, limiting competition and raising overall project cost
- May be redundant as the project will be constructed in accordance with state and federal statutes and low bidding contractor must abide by appropriate prevailing wage laws and fringe benefit requirements



2014
Conceptual
Approval

- Board directed staff to negotiate with TCBT and stakeholders within certain parameters to establish the PSA
- The County's goal at the time was to negotiate a balanced PSA that would maximize the potential number of bidders and local participation
- After over 10 weeks of negotiation, staff returned to the Board in the fall of that year with the proposed conceptual PSA which was the outcome of that negotiation
- TCBT failed to receive 100% approval from their trades and affiliates



2014
Conceptual
Approval

Seven
Negotiation
Points



1. Core workforce (employees on a contractor's payroll who have been employed 60 of the last 100 working days) negotiated that non-union contractors may directly employ up to a maximum of six employees of its regular work force. Then 100% union referrals for remainder of employees.
2. Exemption from the PSA requirements for offsite fabrication/batching facilities – negotiated an exemption.
3. Exemption from the PSA for all Professional Services – negotiated an exemption.

2014
Conceptual
Approval

Seven
Negotiation
Points



4. Exclusive use of apprentices from a locally approved apprenticeship program – negotiated the exclusive use of union apprenticeship programs.
5. Union dues for non-union contractors – negotiated no union dues for non-union contractors, however, a “window” fee would be collected by the union.

2014
Conceptual
Approval

Seven
Negotiation
Points



6. Union benefits for non-union contractors – negotiated three options; 1) union contractors would continue paying union benefits, 2) non-union contractors with equivalent benefit plans would continue to pay into their plans, and 3) non-union contractors without benefit plans would pay equivalent benefits into a trust for their employee.

7. Local participation – established goal of 45% local participation rate.

TCBT were able to get all but one affiliate to approve your Board's conceptually approved PSA.

Balancing Concerns

- Would a CWA reduce competition in bidding?
- Bid amounts increase as the number of bidders decrease.*

Number of Bids	Bid Deviation from Engineer's Estimate
1	38%
2-3	16%
4-5	0
6-7	-5%
8+	-10%

This factor alone could represent a 21% increase in bid pricing as the number of bidders decreases from seven to three.



* Current Construction Costs 2021 Annual Edition

Balancing Concerns

- In 2014 mitigating the risk of losing bidders on the AB 900 Phase II Project was critical due to funding constraints
- Your County negotiating team at the time worked with various stakeholders to obtain input on key items contained within a PSA
- The goal of this effort was to maximize the number of bidding contractors for the project
- The use of stakeholders in 2014 was beneficial to the negotiations



City of Santa Barbara Process

Four Negotiation Points



The City of Santa Barbara (City) went through a similar process with TCBT and have approved terms of their CWA:

1. Local Participation – encourages local contractors and suppliers to participate with a goal of at least 50% of all labor hours from local area residents.
2. Core Workers – non-union contractors may directly employ up to a maximum of three (3) employees of its regular, local, experienced work force. Then a 1 to 1 ratio is utilized until 9 employees are employed and then 100% union referrals for 10 or more employees.

City of
Santa Barbara
Process

Four
Negotiation
Points



3. Benefit Plans – non-union contractors shall pay contributions to the established union benefit funds in the amounts designated in the appropriate trades Master Labor Agreement.
4. Construction Inspection & Materials Testing – the work of these consultants are considered a covered craft under the CWA.

Decision Points

Five options for moving forward:

Option 1: Utilize the finalized City CWA.

Option 2*: Utilize the finalized City CWA as the County's base CWA and negotiate agreement terms within that document to maximize the number of bidders on County projects in the future.

Option 3: Utilize your Board's 2014 conceptually approved PSA as the County's CWA.

Option 4*: Renegotiate an entirely new CWA with TCBT.

Option 5*: Provide other direction as appropriate.

* - Options require conceptual direction from your board today.





PSA and CWA Comparison

<i>CWA Points</i>	<i>2014 County Project Stabilization Agreement (PSA)</i>	<i>2021 City of Santa Barbara CWA</i>
Core workforce	Non-union contractors may directly employ up to a maximum of six (6) employees of its regular work force. Then 100% union referrals for remainder of employees	Non-union local* contractors may directly employ up to a maximum of three (3) employees of its regular, local, experienced work force. Then a 1 to 1 ratio is utilized until 9 employees are employed and then 100% union referrals for 10 or more employees
Exemption from the PSA requirements for offsite fabrication/batching facilities	Exempt	Exempt
Exemption from the PSA for all Professional Services	Exempt	Construction Inspection & Materials Testing consultants are considered a covered craft under the CWA - all others exempt
Exclusive use of apprentices from a locally approved apprenticeship program	Exclusive use of union apprenticeship programs	Exclusive use of union apprenticeship programs
Union dues for non-union contractors	No union dues for non-union contractors, however, a “window” fee would be collected by the union	Non-union contractors pay union dues
Union benefits for non-union contractors	Negotiated three options; 1) union contractors would continue paying union benefits, 2) non-union contractors with equivalent benefit plans would continue to pay into their plans, and 3) non-union contractors without benefit plans would pay equivalent benefits into a trust for their employee	Non-union contractors pay union benefits
Master Labor Agreements (MLA's)	Excluded	Included
Local participation	Established goal of 45% local participation rate	Encourages local contractors and suppliers to participate with a goal of at least 50% of all labor hours from local area residents

* - Tri-Counties Contractors from Santa Barbara, Ventura, San Luis Obispo



Coordination and Process

- Stakeholder Outreach*: In 2014, staff developed a stakeholder outreach process. Options 2 or 4 above will involve more discussion and negotiation with TCBT. Stakeholder outreach process could be developed to seek input to those affected.
- Threshold: The City is using a \$5 million threshold with various exemptions. Your Board may set a different threshold.
- Pilot*: The City negotiated a CWA for all future construction projects over their defined threshold limit. Your Board could do the same or decide to include on a specific future construction project as a pilot.

* - Requires direction from your board today.





Recommendations

- a) Provide conceptual direction to staff on negotiations for a CWA on public projects, including one of the following options:
 - 1) Utilize the CWA the City recently negotiated with TCBT;
 - 2) Utilize the CWA the City recently negotiated with TCBT as the County's base agreement and negotiate certain terms within that document;
 - 3) Utilize your Board's 2014 conceptually approved Project Stabilization Agreement (PSA) as the County's CWA;
 - 4) Negotiate an entirely new CWA with TCBT;
 - 5) Provide other direction as appropriate.





Recommendations

- b) Direct staff to proceed with the necessary coordination and negotiation, and to return to your Board for further direction as necessary, and following negotiations, with a recommended ordinance and findings to approve use of a CWA; and
- c) Find that the proposed activities do not constitute a “Project” within the meaning of CEQA, pursuant to 14 CCR 15378 (b)(5)(Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment), therefore no environmental document is required.



CWA on
Public Projects

Seven
Negotiation
Points



Thank You