

#54
02/13/2024

(O-2024-56)

ORDINANCE NUMBER O- 21764 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 14 2024

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE PROJECT LABOR AGREEMENT (PLA) FOR CITY-PROCURED CAPITAL IMPROVEMENT PROJECTS AND OTHER PROJECTS FOR A SEVEN-YEAR TERM BEGINNING ON JULY 1, 2024, AND RELATED ACTIONS.

WHEREAS, the voters of San Diego passed Measure D, Gen. Elec. (Nov. 8, 2022) which amended the San Diego Municipal Code to allow the City's use of project labor agreements (PLA) on construction projects; and

WHEREAS, a PLA is a pre-hire collective bargaining agreement with multiple unions that establishes the terms and conditions of employment for specified construction projects that is used by multiple organizations on numerous construction projects throughout the United States; and

WHEREAS, in October 2023, under the direction of the Mayor, City staff initiated negotiations with the San Diego County Building & Construction Trades Council and craft unions on a PLA to cover "City-procured Capital Improvement Projects and Other Projects"; and

WHEREAS, City staff negotiated a PLA that, if approved, will be utilized for certain City-procured construction projects and specific professional services agreements advertised after July 1, 2024, which are defined as Covered Projects or Covered Professional Services Agreements in the PLA; and

WHEREAS, as more fully set forth in the PLA, Covered Projects include construction contracts advertised from July 1, 2024, to June 30, 2026, with a City-estimated construction value of at least \$5 million, and construction contracts advertised after June 30, 2026, with a

City-estimated construction value of more than \$1 million, construction projects that are not procured by the City that are identified in an attachment to the PLA; and

WHEREAS, Covered Professional Services Agreements include: consultant agreements for Covered Projects that include Covered Work, which is identified as requiring payment of prevailing wages under the State of California general prevailing wage determinations for Field Surveyor, Building/Construction Inspector, and Field Soils and Material Tester; and specialized as-needed consultant agreements that include Covered Work for as-needed construction management services, as-needed geotechnical engineering services, as-needed land surveying, mapping, and digitizing services, and as-needed material testing services; and

WHEREAS, the PLA is intended to be beneficial to the efficient delivery of City-procured construction projects included in the City's adopted Capital Improvements Program (CIP) budget and other projects specifically identified by the City that are of regional significance, or are critical to the safety, economic sustainability, or quality of life of the citizens of San Diego; and

WHEREAS, the City is committed to creating programs that provide access to a skilled and trained workforce and address the needs of underserved groups who historically experience significant barriers to participating in employment within the construction industry; and

WHEREAS, the City's CIP is large, complex, diverse, and contains construction projects in support of a wide variety of infrastructure assets, such as: large capacity water, wastewater, and storm water treatment facilities and pump stations; bridges; parks; comfort stations; fire stations; police stations; lifeguard facilities; libraries; piers; streets; storm drains; streetlights; and internal City support facilities; and

WHEREAS, the City routinely advertises construction contracts to replace or repair its assets, and the City desires the completion of these projects in a professional, safe, efficient, and

economical manner, without undue delay or work stoppage; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training, and employment of local and targeted workers and recognizes the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry. The PLA assists the City in meeting this priority by requiring a significant portion of journeypersons and apprentices graduate from an approved apprenticeship program; and

WHEREAS, by establishing and stabilizing wages, hours, and working conditions for the workers employed on City construction projects, City hopes to create a satisfactory, continuous, and harmonious relationship among labor and management that will lead to the efficient and economical completion of Covered Projects while also establishing effective and binding methods for the settlement of all misunderstandings, disputes, and grievances without any strikes, slowdowns, work interruptions, or disruption of construction; and

WHEREAS, the PLA requires all non-union contractors pay union benefit contributions for all core employees and any other persons employed other than through the referral process. A core employee must be a journeyperson and appear on the contractor's active payroll for at least sixty (60) of the last one hundred and twenty (120) working days, and must possess any license required by state or federal law for Covered Projects; and

WHEREAS, the PLA contains limited carve-out provisions for Disadvantaged Businesses which are defined as a business that is either: (1) Disadvantaged Business Enterprise pursuant to 49 C.F.R. § 26.5 that has been certified by either the California Department of Transportation ("Caltrans") or a Caltrans-approved California certifying agency; (2) a Minority Business Enterprise or a Woman Business Enterprise certified by Caltrans, a Caltrans-approved certifying agency or the California Public Utilities Commission (CPUC); or (3) a Small Local

Business Enterprises or Emerging Local Business Enterprises certified by the City of San Diego;
and

WHEREAS, the PLA allows Disadvantaged Businesses to employ up to a total of five (5) core employees per craft without having to pay fringe benefits and other required contractor contributions to the established Union employee benefit funds for subcontracts valued at or below \$500,000, provided that the total value of all subcontracts may not exceed ten percent of the total value of any Covered Project, and each Disadvantaged Business is limited to using this procedure for one subcontract per Covered Project; and

WHEREAS, the City also seeks to provide opportunities for Disadvantaged Businesses to participate as contractors, subcontractors, or suppliers through its Small and Local Business Program, which furthers the policy goals of stimulating economic development through the support and empowerment of the local business community on City-funded contracts and promoting equal opportunity for all segments of the contracting community; and

WHEREAS, one of the objectives of the Small and Local Business Program is to increase participation of Small Local Business Enterprises (SLBEs) and Emerging Local Business Enterprises (ELBEs) in City contracting and, to the extent possible, ameliorate through race- and gender-neutral means any disparities in the participation of minority business enterprises or women business enterprises on City contracts by making certified SLBEs and ELBEs eligible to receive benefits such as restricted bidding, bid discounts, and preference points when bidding on City contracts. These benefits are designed to assist and encourage small local businesses to compete for City contracts; and

WHEREAS, the PLA will operate in conjunction with the City's Small and Local Business Program which provides: contracts valued at \$1,500,000 and above shall include a mandatory subcontractor participation requirement for SLBEs and/or ELBEs; contracts valued

between \$1,000,000 and \$1,500,000 shall include a mandatory subcontractor participation requirement, a 5% bid discount for SLBE or ELBE prime contractors, and a 5% bid discount for non-SLBE or ELBE prime contractors that meet or exceed the mandatory subcontractor participation goal; and contracts valued below \$1,000,000 are restricted to SLBE and/or ELBE bidders through a two-tier system; and

WHEREAS, in past fiscal years, the City set an aspirational goal for SLBE and ELBE participation in City contracting based on historical trends and forecasting at greater than 20 percent of all annual expenditures of the City's CIP, and while these goals are project specific, the City's 2020 Disparity Study recommendations adopted by Council in 2022, included a recommendation that the City incorporate a 31 percent goal for participation by Minority- and Woman-owned businesses; and

WHEREAS, the City retains the ability to address potential PLA impacts to its Small and Local Business Program with respect to subcontracting participation, goals, and required contributions to the Union Benefit Fund on behalf of core employees through future amendments to the San Diego Municipal Code (SDMC), including Chapter 2, Article 2, Division 36, related to the Small and Local Business Program Administration; and

WHEREAS, under San Diego Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by ordinance approved by a two-thirds majority vote of the City Council; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

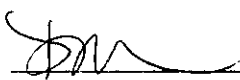
Section 1. That the City of San Diego Project Labor Agreement for City-Procured Capital Improvement Projects and Other Projects (PLA), effective for a seven-year term beginning on July 1, 2024, under the terms and conditions set forth in the PLA on file in the office of the City Clerk as Document No. OO- 21764 is approved.

Section 2. The Mayor or designee is authorized to sign and deliver the PLA.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Bonny Hsu
Deputy City Attorney

BH:cw
January 16, 2024
Or.Dept: Strategic Capital Projects Department
CC No.: N/A
Doc. No.: 3529064

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 13 2024.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 2/14/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on FEB 13 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 - vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 14 2024

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JAN 30 2024, and on FEB 14 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21764</u>