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Honorable Members of the City Council
Joint Homelessness and Poverty Committee and Housing Committee
200 N. Spring Street, Room 395
Los Angeles, CA 90012

August 14, 2017

Honorable Members:

BUREAU OF CONTRACT ADMINISTRATION – CONSIDERATIONS TO THE JOINT HOMELESSNESS AND POVERTY AND HOUSING COMMITTEES REGARDING A PROJECT LABOR AGREEMENT FOR PROPOSITION HHH (COUNCIL FILE 17-0090-S1)

In response to instruction from the Joint Homelessness and Poverty and Housing Committees to prepare policy to implement a Project Labor Agreement (PLA) for projects funded with Proposition HHH (HHH) bond proceeds, the Bureau of Contract Administration (BCA), in coordination with the City Attorney submits for your review a report on the BCA considerations for an HHH PLA. This report is based on dialogue between the BCA and representatives of City Council District Nos. 8 and 9, Office of the City Administrative Officer (CAO), City Attorney, Housing and Community Investment Department (HCIDLA), Los Angeles/Orange County Building & Construction Trades Council (TRADES), Southern California Association of Non-Profit Housing (SCANPH) and other Permanent Supportive Housing (PSH) development stakeholders.

DISCUSSION

Upon the 60-day continuance of the subject Council File item during the City Council's Joint Homelessness and Poverty and Housing Committees meeting on June 7, 2017, the Proposition HHH PLA Working Group, consisting of representatives from Council District Nos. 8 and 9, CAO, City Attorney, BCA and HCIDLA, met to discuss PLA policy and project minimum threshold suggestions made by SCANPH within correspondence addressed to City Councilmembers Dawson and Huizar, dated May 24, 2017. Specifically, the correspondence offered the following suggestions:

- The PLA should only apply to developments not yet approved for City funding.
- The PLA should be based on the original Community Redevelopment Agency of Los Angeles (CRA/LA) Construction Careers Policy and associated PLA.
- PLA projects' minimum threshold would serve as 75 housing units, where projects with less than 75 housing units would be exempt from PLA inclusion.



- Projects without a minimum of three subcontractor bidders would receive a PLA exemption after a short window for the TRADES to help identify additional bids.
- SCANPH members would participate in the PLA negotiations.

During the meeting on June 7, 2017, the PLA Working Group discussed the parameters of the Proposition HHH funding. It was acknowledged that funding covers (a) permanent supportive housing for homeless or chronically homeless individuals, (b) facilities that directly support community programs for PSH residents, (c) infrastructure additions and improvements that directly impact PSH or related facility projects, such as streets, sidewalks and lighting.

Also during the meeting, two community dialogue sessions with SCANPH members and other residential and other PSH stakeholders were scheduled for July 19, 2017. The two dialogue sessions produced lengthy discussions where stakeholders were able to express their desires, frustrations, misnomers and preferred outcomes of PLAs attached to their respective potential PSH projects. Specifically, the discussions heavily revolved around the following six PLA components.

- Threshold – The minimum project threshold of housing unit count, square footage and/or cost, which would trigger inclusion of the HHH PLA.
- Education – Understanding the PLA’s accountability, administration process and transparency with how implementation affects contractors and local hiring of underrepresented community members.
- Core Workforce – The maximum number of workers employed by an involved prime or subcontractor for a set number of days before a HHH PLA project would begin construction.
- Subcontractor Bidding Requirements – The minimum number of bids needed from subcontractors for each craft of work.
- Grievance Process – The process to deal with potential workforce jurisdictional disputes, work stoppages, interpretation of PLA policy or other project related issues.
- Term – The length of time in which the PLA would be in effect.

While the dialogue sessions were informative and allowed both stakeholders and City Working Group representatives to voice their concerns and preferences, no final determinations were rendered on any of the six aforementioned components. However, with threshold being the component with the most potential impact on PLA implementation, it was suggested that SCANPH revise their original correspondence to include the dialogue sessions’ discussions, with specific emphasis on revisions to suggested thresholds.

A follow-up meeting with the HHH PLA Working Group was held on July 24, 2017, to debrief the stakeholder dialogue sessions and to discuss further analysis on potential PLA project thresholds. In advance of this meeting, HCIDLA personnel provided a spreadsheet of 85 PSH projects that were approved and financed between January 1, 2013, and May 31, 2017, which included each project’s Unit Count (UNITS), Square Footage and Total Developmental Cost (TDC). The meeting centered on analysis of the 85 projects and it was agreed that UNITS and TDC provided the most consistent method to determine threshold.



During a follow-up conference call on July 25, 2017, between the Inspector of Public Works, John L. Reamer, Jr. and the SCANPH Executive Director, Alan Greenlee, another conversation regarding PLA threshold took place. During that conversation, it was strongly suggested that SCANPH engage in direct conversation with the TRADES to determine if an amenable compromise on threshold could be reached, where both organizations would be satisfied, where the City would not have to dictate the final HHH PLA project thresholds.

Greenlee agreed with the suggestion and stated the revised correspondence would be completed and distributed after an attempt was made to engage in the suggested direct discussion, which successfully occurred on July 28, 2017. The revised correspondence was emailed to BCA personnel later that afternoon and forwarded to the HHH PLA Working Group on July 31, 2017.

Additional HHH PLA Working Group meetings were scheduled for August 3, 2017 and August 11, 2017, to discuss updates on the SCANPH and TRADES' threshold conversations and potential compromise, along with BCA continued threshold analysis and considerations in response to the Council Committee's directed action.

In the interim, the BCA conducted a series of analyses to address issues related to potential threshold, education and subcontractor bidding to provide clarity on how to best move forward in both developing and implementing an HHH PLA.

PLA THRESHOLD ANALYSIS

To determine and support PLA threshold considerations, BCA staff first conducted an analysis of the 85 PSH projects, which has been attached. The analysis was based on category, number and percentage of projects, total units and cost, and average units and cost.

CATEGORY	PROJECTS	PERCENT	UNITS	TDC
Acquisition + Rehabilitation	31	36.47%	2921	\$601,984,012
Rehabilitation + New Construction	2	2.35%	138	\$57,415,617
Demolition + New Construction	2	2.35%	99	\$38,041,313
New Construction	44	51.76%	2838	\$1,142,566,575
Rehabilitation	6	7.06%	417	\$138,216,392
TOTAL	85	100%	6413	\$1,978,223,909



CATEGORY	AVERAGE UNITS	AVERAGE TDC
Acquisition + Rehabilitation	94	\$19,418,839
Rehabilitation + New Construction	69	\$28,707,809
Demolition + New Construction	50	\$19,020,657
New Construction	65	\$25,967,422
Rehabilitation	70	\$23,036,065
AVERAGE	75	\$23,273,222

While the average UNITS and TDC presented reasonable thresholds, it did not appear to be a true representation of the overall projects, since 75 of the 85 projects, or 88%, were either categorized as “Acquisition + Rehabilitation” or “New Construction.” Thus, the projects were re-examined individually, to determine the lowest, highest and median UNITS and TDC, to locate a more accurate baseline, regardless of category.

THRESHOLD	LOWEST	HIGHEST	MEDIAN
UNITS PER PROJECT	17	400	69
TDC PER PROJECT	\$4,832,135	\$65,668,743	\$22,213,846

The data revealed that the median baselines represent 43 of the 85 projects, or 51%. The averages and medians of both UNITS and TDC were then compared to determine the exact number of individual projects those thresholds would capture.

While 75 units was the project average, only 37 of the 85 projects, or 43.53%, contained 75 or more units. However, the median of 69 units represented 48 of the 85 projects, or 56.47%, that contained 65 or more units.

The average and median TDC of the 85 projects were much closer, as their difference was only \$1,059,376. Comparing both to individual project TDC, 51 of the 85 projects, or 60%, had a TDC of \$20,000,000 or more. Furthermore, 43 of the 85 projects, or 51%, were at or above the median TDC threshold.



PLA TARGETED HIRING ANALYSIS

As PLA implementation and provisions accountability was also of significant stakeholder interest, it was necessary to examine if the implementation of an HHH PLA was viable, with achievable targeted hire goals. Using the Median TDC as a general baseline, BCA staff examined the targeted hire of projects that contained similarities in cost, funding and/or project type to projects that would potentially be covered by the HHH PLA.

Understanding the stark differences between general HCIDLA projects and current Department of Public Works (DPW) projects, the analysis was limited to Proposition F and Q – Library, Fire and Police Station projects that were covered under the previous Department of Public Works PLA, PSH projects covered under the original CRA/LA Construction Careers Policy & PLA and PSH projects covered under the Wiggins Settlement Agreement. These projects were examined for the following, if applicable.

- Project compliance for local hire, local apprentice and disadvantaged goals
- Reason(s) for local hire non-compliance

PROJECT	CATEGORY	COST	OVERALL LOCAL HIRE (30% GOAL)	LOCAL APPRENTICE (50% GOAL)	DISADVANTAGED WORKER (10% GOAL)
Ford Apartments	CRA/LA	\$28 Million	53%	50%	21%
Villas at Gower	CRA/LA	\$31 Million	50%	41%	9%
New Genesis Apartments	CRA/LA	\$34 Million	34%	58%	9%
Renato Apartments	Wiggins Settlement	\$27 Million	38%	n/a	20%
Van Nuys Apartments	Wiggins Settlement	\$42 Million	20%	n/a	9%
Rosslyn Lofts	Wiggins Settlement	\$53 Million	42%	n/a	20%
Hollenbeck Police Station	Proposition F/Q	\$34 Million	35%	n/a	n/a
Harbor Police Station & Jail	Proposition F/Q	\$35 Million	18%	n/a	n/a
Metro Detention Center	Proposition F/Q	\$74 Million	32%	n/a	n/a



The data revealed that seven of the nine examined projects, or 78%, achieved the 30% Local Hire Goal, including all three of the projects covered under the CRA/LA Construction Careers Policy and PLA. Two projects were non-compliant with the local hire goal and another three projects were just outside of the compliance threshold with the 10% Disadvantaged Worker Goal (previously categorized as “At-Risk”). Thus, a review of these projects’ administrative documents was conducted to determine reasons for non-compliance and revealed the following.

- The Van Nuys Apartment project, covered under the Wiggins Settlement, employed five specialized certification subcontractors that were neither based within the City nor employed City residents. Accounting for 13,660 of the 50,226 total project work hours, or 27%, these subcontractors all performed mandatory, highly customized, technical work. These subcontractor work hours also affected meeting the 10% Disadvantaged Worker Goal.
- The Harbor Police Station and Jail project was originally bid without a PLA; however, the prime contractor, Pinner Construction Co., voluntarily agreed to follow the PLA terms, including the local hire provisions. While the project was unsuccessful with its local hire goals, the project was still viewed as a success, providing the BCA with educational opportunities to adapt and enhance its local hire program.
- The Villas at Gower and New Genesis Apartments projects both lost their Disadvantaged Worker Goal compliance in the last five months of their respective projects. The Gower project had 20,423 combined work hours in November and December 2011, the highest two month total during the project. However, Disadvantaged Worker hours did not sustain similar increases, due to subcontractor specialty work, which occurred throughout the remainder of the project hours.

Similarly, the New Genesis project showed a sharp decline in Disadvantaged Worker hours during the last three months of the project, March 2012 through May 2012, with a combined 1,061 work hours of 15,274 total project work hours, or 7%. This represented the lowest three month total during the project’s general construction period from January 2011 through May 2012. This is also attributed, in part, to subcontractor specialty work, in which local apprentices and workers were not typically employed to perform.

This detailed review really captured the necessity for contractors to be fully educated on PLA provisions, especially with regards to targeted hire goals. These projects occurred in the infancy of widespread PLA implementation across the City, where both contractors and analysts assigned to monitor these projects were learning how to spot and overcome potential PLA challenges.

However, these nine projects also show the PLA targeted hiring goals of 30% Local Hire, 50% Local Apprentice and 10% Disadvantaged Worker, which is now referred to as Transitional Worker, are practical, reasonable and attainable for any potential HHH project that meets the finalized, identified PLA project threshold.



PLA SUBCONTRACTING ANALYSIS

Stakeholders’ concerns were also expressed regarding subcontractor bidding amounts, where a suggestion of a \$200,000 or less exemption be placed onto the HHH PLA. In an effort to address them, the Proposition F and Q projects were examined for the dollar amount of each subcontract and the number of subcontract substitutions requested.

Due to the age of these projects, finding records proved to be challenging; of the three aforementioned Proposition F and Q projects, only specific data for the Hollenbeck Police Station was available. Thus, the analysis was refined to include similar projects in which the data was available.

The analysis was based on the project and its cost, total number of subcontractors and substitute contractors employed, and the lowest, highest and average bid amounts of subcontractor work.

PROJECT	COST	SUB CONTRACTOR TOTAL	SUBSTITUTION CONTRACTOR TOTAL	LOWEST BID	HIGHEST BID	AVERAGE BID
Westwood Branch Library	\$6.4 Million	17	4	\$36,000	\$875,000	\$202,300
Harbor Gateway Library	\$6.6 Million	15	14	\$13,000	\$690,000	\$209,963
Hollenbeck Police Station	\$34 Million	26	6	\$55,140	\$1,634,870	\$425,172
Police Headquarters Facility	\$245.6 Million	21	2	\$97,758	\$19,818,000	\$5,940,577

The data revealed that while these projects vary in cost and the amount of subcontractors, there does not appear to be a correlation between PLA project cost and the amount of substitute subcontractors, whether the subcontractor is employing a second-tier subcontractor or is being replaced outright by another subcontractor for non-approval or non-performance. The largest of the four projects, the Police Headquarters Facility, employed 21% less subcontractors than the Harbor Gateway Library, in which 13 of the 14 substitution contractors, or 93%, were second-tier subcontractors.

Further, the subcontractor bid amounts on these projects range from a few thousand dollars to millions of dollars. All four projects had subcontractor work that was lower than \$200,000, which, under SCANPH’s suggested exemption, would have exempted all four projects from PLA inclusion.



Stakeholders also expressed concerns over the perceived lack of subcontractor bidders for PLA projects and suggested exemptions be placed onto the HHH PLA for subcontractors that do not receive the minimum number of bids. It is acknowledged that HCIDLA projects currently require a minimum of three subcontractor bids. However, the lack of competition or competitive bids is not specifically related to the PLA, but rather market conditions. It can be debated that the PLA's presence may discourage a particular contractor from bidding on a project based on their perception of what entails working under the conditions of a PLA, but that is viewed as an education issue, not one of open market competition.

CONSIDERATIONS

The BCA has outlined several considerations for the City Council Joint Homelessness and Poverty and Housing Committees' action on HHH PLA. These considerations stem from the analyses provided, discussions held and the identification of consistent language within the current DPW PLA. The DPW PLA contains an abundance of language that is consistent with other PLAs, both within the City and the Los Angeles region and would be beneficial to assist with some of the issues at hand.

These considerations are provided with a caveat. Currently, SCANPH and the TRADES are engaged in continuous, fruitful dialogue about compromises on several issues in which considerations will be provided within this correspondence, including Threshold, Core Workforce, Subcontractor Bidding Requirements and Term. Should an agreement be reached for any and/or all of those issues, the applicable considerations listed should be bypassed in favor of the agreed upon conditions.

Threshold

Suggestion (SCANPH) – Raise the minimum PLA project threshold from 75 Units to 125 Units.

Consideration – Threshold criteria for all HHH PLA PSH projects:

- UNITS – 65 Units or more appears to capture the median amount of PSH projects built with HHH funding. This number allows coverage for larger projects under the HHH PLA, regardless of category or pricing.
- FACILITIES/INFRASTRUCTURE – On August 11, 2017, the HHH PLA Working Group engaged in dialogue where the consideration of a \$5 million TDC threshold was discussed and examined. Presently, TDC is the only common threshold for these projects, since there is no unit or square footage associated with sidewalk, street or other PSH supportive type infrastructure projects.

Also during the meeting on August 11, 2017, it was discussed and examined to have all mixed use projects, those featuring both PSH and related facility or infrastructure project(s), be subject to the HHH PLA, provided that the PLA already applies to the housing portion. The facilities project(s) would then be covered, regardless of individual TDC.



Education

Suggestion (SCANPH) – Make sure there are mechanisms in place to advance the principles of targeted hiring and accountability and for the PLA to deliver on job opportunities for underrepresented communities.

Consideration – The BCA has a training course that instructs contractors on the provisions of PLAs. This course is provided every second Wednesday of the month.

Core Workforce

Suggestion (SCANPH) – Reduce the core workforce identification requirement of workers appearing on an active payroll to 30 of 60 days prior to the award of a construction contract, per conversation in the stakeholder meeting.

Consideration – The DPW PLA contains language that mandates core workers appear on an active payroll 60 of out 100 days prior to the award of a construction contract.

Subcontractor Bidding Requirements

Suggestion (SCANPH) – Exempt subcontractors from PLA inclusion without receiving the minimum number of three bids for the work to be performed.

Consideration – The DPW PLA does not include any subcontractor exemptions.

Grievance Process

Suggestion (SCANPH) – The grievance process should be fair and unbiased.

Consideration – The DPW PLA and most other regional PLAs have a specified grievance procedure.

Term

Suggestion (SCANPH) – Implement an initial term of one to two years to evaluate the HHH PLA.

Consideration – The DPW PLA is for a term of five years. The CRA/LA PLA was for a term of three years, with two separate one year renewals.



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With the City Council's direction and resources, the BCA is prepared to move forward and assist in the implementation of the considerations outlined above.

Sincerely,



JOHN L. REAMER, JR., Director
Bureau of Contract Administration

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