

# Agenda Report

February 5, 2007

**To:** CITY COUNCIL  
**From:** CITY MANAGER  
**Subject:** RESOLUTION AUTHORIZING SUBMISSION OF A LABOR COMPLIANCE PROGRAM FOR PROJECTS FINANCED BY PROPOSITION 50 FUNDS

## **RECOMMENDATION**

It is recommended that the City Council adopt the attached resolution authorizing submission of a Labor Compliance Program (LCP) for the purpose of implementing a policy relative to the labor compliance provisions of state and federally funded public works contracts. This LCP is applicable to all public works projects that are funded in any part by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50).

## **BACKGROUND**

In September 2006, the Water and Power Department (Department) submitted a Proposition 50 grant application for \$1.1 million to the California State Department of Health Services (DHS) for a project identified in the Water Division's Capital Improvement Program (CIP), the Sunset Perchlorate Treatment Plant (CIP #1062).

In November 2006, DHS notified the Department that it had accepted the grant application. As part of the DHS Proposition 50 administrative process, the City Council adopted two resolutions authorizing the final application and signature authority of the project on December 11, 2006.

Per California Labor Code Section 1771.8(a), a State requirement requires that any awarding body that chooses to use Proposition 50 funds for a public works project shall establish and enforce a LCP containing the requirements outlined in Section 1771.5 of the Labor Code, or shall contract with a third party to operate a LCP containing the requirements outlined in Section 1771.5 of the Labor Code and submit it to the State's Department of Industrial Relations (DIR).

Section 1771.5 of the California Labor Code states that a LCP shall include certain requirements that the City must meet for public works projects. Many of these requirements are familiar to City staff and are already current practice for labor compliance in the City. These elements include:

- Bid invitations and public works contracts shall contain language concerning the requirements of the California Labor Code.
- Pre-job conferences shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.
- Project contractors and subcontractors shall maintain and furnish a certified copy of each weekly payroll, containing a statement of compliance signed under penalty of perjury.
- Review, and if appropriate, audit payroll records.
- Withhold contract payments when payroll records are delinquent or inadequate.
- Requiring that workers employed by contractors or subcontractors in the execution of federal or state funded public works contracts be paid the state-determined prevailing wage.

However, there are other aspects of the LCP that are required by the State that the City's current labor practice does not require, including:

- Preparation of a comprehensive LCP plan, which includes specific State required documents, regulations, labor codes, detailed procedures and operational manuals;
- Outreach activities, including communication with workers and managers at the job sites;
- Ongoing audit management and enforcement actions for project personnel issues;
- Submission of an Annual Report on prevailing wage monitoring and LCP activities to the State DIR.

In determining the feasibility of establishing and adopting a City specific LCP or contracting with a State approved third party to operate a LCP specifically for this Proposition 50 funded project, department staff interviewed other Proposition 50 funded agencies, as well as the State's DIR.

Of the four agencies reached, three agencies contracted with a State approved third party labor compliance service for their LCP. The fourth agency's LCP was returned by the DIR due to incomplete documentation. Eventually, this agency also contracted with a State approved third party. Staff from the State DIR encouraged department staff to consider contracting with a State approved third party labor compliance service to

expedite the administrative process and the complexity of compiling all documents and forms required in the LCP.

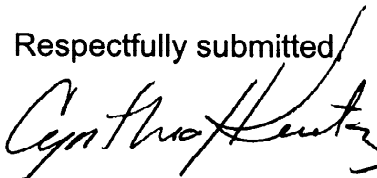
In lieu of adopting its own LCP, department staff has contracted the labor compliance services of The Solis Group (LCP ID 2003-00130), a provider of third party LCP's, approved by the California Department of Industrial Relations (DIR). After an informal bid process, The Solis Group, a State DIR-approved Pasadena-based firm that has provided LCP-related services for over 12 years with more than 20 local governmental entities, including the Pasadena Gold Line Authority was selected for their experience working with other governmental entities and as a local City of Pasadena vendor.

The presence of a LCP in Pasadena shall only extend to public works projects funded by State Proposition 50 funds. The City has the option to cancel the LCP upon completion of the Proposition 50 project.

Pasadena's Municipal Charter Article 10 - Section 1008 states that "Whenever the City shall have received any money from the Federal Government or from the State of California, or from any agency of either, it may in the expenditure of such money conform to all applicable requirements of Federal or State laws, and of regulations and orders issued under the authority thereof, with respect to the awarding of contracts, hours of labor, employment preferences, and other such matters covered thereby, notwithstanding any provisions of this Charter inconsistent therewith, and any such inconsistent provisions shall yield and be subordinate thereto with respect to such expenditure."

**FISCAL IMPACT**

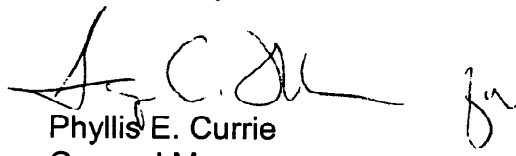
Failure to adopt and submit a LCP with the State's DIR would forfeit the \$1.1 million grant provided by the State's Proposition 50 Funds for the Sunset Perchlorate Treatment Plant. The cost of the LCP-related services has been budgeted under the City's Water Capital Improvement Program (CIP) Budget #1062.

Respectfully submitted,  
  
Cynthia J. Kurtz  
City Manager

Prepared by:

  
Fred Lyn  
Legislative and Regulatory Affairs Manager  
Water and Power Department

Approved by:

  
Phyllis E. Currie  
General Manager  
Water and Power Department

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA  
AUTHORIZING SUBMISSION OF A LABOR COMPLIANCE PROGRAM FOR  
PROJECTS FINANCED BY PROPOSITION 50 GRANT FUNDING

WHEREAS, the City of Pasadena has been awarded a grant from the State of California under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 ("Proposition 50"); and

WHEREAS, California Labor Code Section 1771.8(a) requires that any awarding body that uses Proposition 50 funds for a public works project shall establish and enforce, or contract with a third party to establish and enforce, a Labor Compliance Program ("LCP") that complies with the requirements of Labor Code Section 1771.5(b); and

WHEREAS, a LCP is a plan which sets forth the Labor Code requirements for public works projects funded by Proposition 50 and the manner in which such compliance is to be achieved; and

WHEREAS, the City has contracted with the Solis Group (LCP ID 2003-00130) to provide third party labor compliance services for the City's Proposition 50 funded projects, including a LCP acceptable to the California Department of Industrial Relations ("DIR");

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

1. The City Attorney is hereby directed to review, and if acceptable, approve the LCP prepared by the Solis Group as to form;

2. The LCP in the form approved by the City Attorney is hereby adopted for all City projects funded by Proposition 50; and

3. The City Manager, or her designee, is hereby authorized and directed to submit the LCP to the Director of DIR for approval.

Adopted at the regular meeting of the City Council of the City of Pasadena on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the following vote:

AYES:

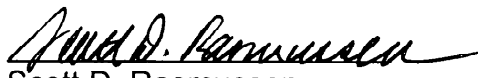
NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Jane L. Rodriguez, CMC  
City Clerk

APPROVED AS TO FORM:

  
Scott D. Rasmussen  
Assistant City Attorney