



Agenda Report

April 8, 2013

TO: Honorable Mayor and City Council

FROM: Water and Power Department

SUBJECT: AUTHORIZATION FOR THE CITY MANAGER TO NEGOTIATE A PROJECT LABOR AGREEMENT UNDER CERTAIN TERMS AND CONDITIONS WITH THE STATE AND LOCAL BUILDING AND CONSTRUCTION TRADES COUNCILS AND PROVIDED THAT SUCH TERMS AND CONDITIONS ARE MET, MAKE ENTERING THE PROJECT LABOR AGREEMENT A REQUIREMENT OF THE SUCCESSFUL BIDDER ON THE CONSTRUCTION PORTION OF THE GLENARM REPOWERING PROJECT

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the recommended authorization is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15378; and
2. Authorize the City Manager to enter into negotiations with the State and Local Building and Construction Trades Councils for a project labor agreement ("PLA"), which would include all of the taxpayer protection provisions of Public Contract Code Section 2500; and
3. Upon completion of successful PLA negotiations, require the successful bidder for the construction portion of the Glenarm Repowering Project to enter into a PLA with the State and Local Building and Construction Trade Councils as a condition of contract award.

BACKGROUND:

In March 2009, the City adopted the energy Integrated Resource Plan ("IRP") which provides a 20-year blueprint for Pasadena Water and Power ("PWP") to ensure reliable and environmentally responsible electricity at competitive rates. A key recommendation of the IRP is to replace the local, old and inefficient steam electric generating Unit B3 (71 MW) with an equal-sized new natural gas-fired combined cycle unit. This is known as the Glenarm Repowering Project. The project will be accomplished by issuing two major contracts; one contract to furnish and deliver major equipment; and the other contract for the design and construction of the power plant. PWP is considering

requiring construction contractors to enter into a PLA with the State and Los Angeles/Orange Counties Building and Construction Trades Councils.

A PLA, which is also commonly referred to as a “project stabilization agreement”, is a type of “prehire” collective bargaining agreement generally negotiated and entered into between a labor organization and employer before the start of a construction project. PLAs have been used for decades by both the private and public sector in the construction industry, particularly on large, multi-union construction projects. Such agreements are thought to lessen the risk of labor disruptions.

On October 2, 2011, California Senate Bill SB 922 was enacted and added Chapter 2.8 to the Public Contract Code, commencing with Section 2500. Section 2500 *et seq.* permits public entities to use, or require contractors to enter into, PLAs for construction projects. Section 2501 permits the members of the governing board of a local public entity to choose by majority vote whether to use, enter into, or require contractors to enter into PLAs that include all taxpayer protection provisions of Public Contract Code Section 2500. When City charter provisions or ordinances prohibit, limit or constrain the governing board’s authority or discretion to adopt, require or utilize a PLA for construction projects, Section 2503 disqualifies a project from receiving state funding or financial assistance. The repowering project is not subject to State or Federal funding. Therefore, in accordance with the Public Contract Code Section 2500 *et seq.*, staff is seeking the authority from the City Council for the City Manager to negotiate a PLA, and require the use of that PLA on the construction portion of the Glenarm Repowering Project. The scope of this PLA is limited only to the Glenarm Repowering Project.

Potential Advantages of Using a PLA

1. **Promotion of Local Hiring:** Provisions of a PLA can be designed to be an operational extension of the City’s Pasadena First Buy Local function, a program which has been recently improved after reviewing successful efforts adopted on other projects. The objectives of the First Buy Local program include: achieving a minimum percentage of projects’ certified payroll through Pasadena residents; the training of Pasadena residents in construction and technical skills; inclusion and fostering the growth of local partners; and, supporting the local economy through local participation.

Staff has worked closely with outside stakeholders and other City departments to define mechanisms through which labor-related First Buy Local goals can be met: a Pasadena resident hiring goal of 25%, measured as a percentage of certified payroll; a requirement of the unions to refer all Pasadena residents for work requests before any other union hall members not residing in Pasadena, as long as the 25% hiring goal has not been met; and good faith efforts engaged in by a contractor and unions to facilitate, encourage and assist Pasadena residents to commence and progress in apprenticeship programs.

2. **Improved Project Delivery:** The PLA will ensure timely project delivery through the avoidance of unnecessary project delays. Timely project delivery also supports the

objective of maximizing City value derived from the project by reducing expenses which can arise from such delays. A PLA clearly defines the labor practices required by the parties to the PLA, and can be structured to include provisions which would prohibit work stoppages and costly delays to the project.

Potential Disadvantages of Using a PLA

1. **Increased Cost:** While some financial gain may be realized through the standardized labor terms and practices of a PLA, it may be offset in full or more, by additional expenses required administering and monitoring compliance with the terms of the PLA. Staff estimates the net increase in direct construction-related and administrative costs to be approximately \$300,000 or 0.50% of the estimated construction cost. This increase is attributed in part to: PLA provisions requiring the use of union labor or prevailing wages in off-site fabrication and transportation to the project site; and the need for a project labor coordinator to serve as a City liaison to the PLA parties during the life of the construction project. The project labor coordinator may be an outside firm hired specifically for this purpose.

In consideration of the above potential benefits, staff recommends the use of a PLA, between the successful contractor and the applicable unions, on the construction portion of the Repowering Project. To date, staff has been in discussions with the California Unions for Reliable Energy ("CURE") on behalf of the State and Los Angeles/Orange County Building Trades Councils, regarding such an agreement. Under the direction and supervision of the City Attorney, staff is being advised by outside counsel who has extensive experience in this area of practice, and has previously helped the City negotiate PLAs used for PWP Gas Turbine 3 and 4 construction projects. In addition, staff proposes to include a copy of the final negotiated PLA in bid documents for the Glenarm Repowering Project.

COUNCIL POLICY CONSIDERATION:

This authorization supports the City Council strategic goal to support and promote the quality of life and the local economy. It also supports the strategic goal to improve, maintain, and enhance public facilities and infrastructure.

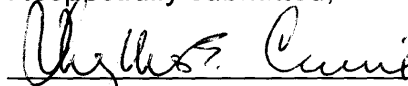
ENVIRONMENTAL ANALYSIS:

The action proposed herein is exempt from CEQA review pursuant to State CEQA Guidelines Section 15378, as it is not a "project" under CEQA. This action gives staff direction on one element to be included in the Request for Proposals that will be issued for the Glenarm Repowering Project. That direction does not have the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment (see 15378(a)). Instead, that direction is an administrative direction given to implement City policies and does not irrevocably commit the City to a PLA for the Glenarm Repowering Project (see 15378(b)).

FISCAL IMPACT:

While it is not possible to project the fiscal impact of the use of a PLA with any certainty, Staff estimates the impact to be approximately \$300,000. This amount represents the increase in cost compared to a prevailing wage project and will be paid from project bond proceeds. A more detailed estimate of accounts and amounts will be presented with the request for approval of the bond structure.

Respectfully submitted,



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General Manager

Water and Power Department

Prepared by:

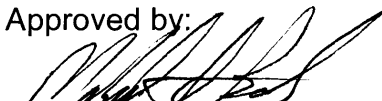


Jason Miller

Engineer

Power Supply Business Unit

Approved by:



MICHAEL J. BECK

City Manager