



**AGENDA**  
**WASTEWATER SUBCOMMITTEE MEETING**  
**8:30 NOVEMBER 20, 2014**  
**CITY HALL**  
**2131 PEAR STREET**  
**PINOLE, CA**

1.	<b>CALL TO ORDER – PLEDGE OF ALLEGIANCE</b>
2.	<b>ROLL CALL</b>
3.	<b>APPROVAL OF MINUTES – SEPTEMBER 2014</b>
4.	<b>CITIZENS TO BE HEARD – FOR ITEMS NOT ON THE AGENDA</b>
5.	<b>FISCAL AGREEMENT:</b> <i>RECEIVE A PRESENTATION ON THE FISCAL AGREEMENT</i>
6.	<b>PROJECT UPDATE:</b> <i>RECEIVE A PROJECT STATUS UPDATE</i> <ul style="list-style-type: none"><li>• <i>ENGINEERING PLANS</i></li><li>• <i>APPLICATION WITH THE STATE REVOLVING LOAN FUND COMMITTEE</i></li><li>• <i>PERMIT APPLICATION WITH BAY CONSERVATION AND DEVELOPMENT COMMISSION (BCDC),</i></li><li>• <i>PERMIT APPLICATION WITH COUNTY</i></li></ul>

7.	<b>PROJECT LABOR AGREEMENT:</b> <i>RECEIVE AN UPDATE REGARDING PROJECT LABOR AGREEMENT</i>
8.	<b>ADDITIONAL COMMENTS AND REQUEST FROM THE SUBCOMMITTEE</b>

POSTED: Thursday November 13, 2014 at 5:00 p.m. at City Hall



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Ana Morales, Secretary, City of Pinole

**PINOLE / HERCULES  
Wastewater Subcommittee**

**Draft Minutes prepared by: Anita Tucci-Smith  
September 18, 2014  
8:30 A.M.**

The meeting was hosted by the City of Hercules in the Council Chambers of City Hall.

**1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

**Sherry McCoy, Vice Mayor of Hercules, serving as Chair called the meeting to order at 8:35 A.M. and led the Pledge of Allegiance.**

**2. ROLL CALL**

**Subcommittee Members Present:**

Sherry McCoy, Vice Mayor, City of Hercules  
Dan Romero, Councilmember, City of Hercules  
Tim Banuelos, Mayor, City of Pinole  
Roy Swearingen, Councilmember Alternate to the Alternate, City of Pinole

**Subcommittee Members Absent:**

None

**Staff Present:**

David Biggs, City Manager, Hercules  
Hector de la Rosa, Assistant City Manager, Pinole  
Dean Allison, Public Works Director/City Engineer, Pinole  
Ron Tobey, Operations Manager, Pinole

**Member(s) of the Public:**

Andre Gharagozian, Process and Operations, Carollo Engineers  
Michael Warriner, Construction Manager, Carollo Engineers  
Mark Wing, Resident Project Representative, Carollo Engineers  
Richard Bloom

**3. APPROVAL OF MINUTES – MAY 27, 2014**

**Hercules Councilmember Romero** requested responses to the questions that had been identified on Pages 3 and 4 of the minutes of the May 27, 2014 meeting.

In response, **Pinole Public Works Director/City Engineer Dean Allison** spoke to the question related to profit margin in the engineering contract and stated that the industry standard for engineering consultants was a markup factor of three on labor costs.

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**Mr. Allison** referred to the second question which had to do with the outreach for the residents who would be impacted by the project, and stated Carollo Engineers had advised there would be a project website, potential robo calls, door hangers, and a need to notify residents along Tennant Avenue when major efforts were ongoing. He sought a commitment from Carollo in that regard. There had also been concerns with Carollo's commitment of personnel to the project given that Carollo had been selected because of its personnel and the Wastewater Subcommittee did not want that personnel to be reassigned to other projects. Language had been included in the contract where any reassignment would require City approval. As to the financial responsibility on Carollo's part, he reported that the Pinole City Attorney had prepared a specific contract to ensure that Carollo Engineers would be responsible for any financial impact to the City.

With respect to the other issues identified in the minutes of the last meeting, **Mr. Allison** advised that he would return with responses at the next meeting.

In response to **Pinole Councilmember Swearingen** who questioned the 300 percent overhead cost, **Mr. Allison** clarified that while a construction contractor would have a lower markup, the industry standard for consulting engineers ranged from 2.8:1 to 3.2:1, and while alarming it was the industry standard and included the expenses naturally part of that scope.

**Hercules Councilmember Romero** clarified that his concern related to a profit margin on top of the marked up rate. Referring to Page 4 of the prior minutes, he verified with Mr. Allison that the contractor would be responsible for the staging area and the entire site at the point of return to the cities.

**Action: Motion by Pinole Mayor Banuelos, seconded by Hercules Councilmember Romero to approve the minutes of the May 27, 2014 meeting as submitted, carried by the following vote:**

Ayes:	Banuelos, Romero, McCoy
Noes:	None
Abstain:	Swearingen
Absent:	None

**4. CITIZENS TO BE HEARD – FOR ITEMS NOT ON THE AGENDA**

There were no comments from the public.

**5. PROJECT UPDATE: Receive an update on the status of project schedule, Engineer's Estimate of cost, permit application with Bay Conservation and Development Commission (BCDC), and application with the State Revolving Loan Fund Committee**

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**Mr. Allison** presented a PowerPoint to advise that much had occurred since the last meeting in May when the Wastewater Subcommittee had recommended the hiring of Carollo Engineers as Construction Manager, which had been approved by the City of Pinole in June. On June 30, 2014, there had been a meeting with the State Revolving Loan Fund in Sacramento; in July discussions had been initiated with the BCDC; and in August and September the Constructability Review had been started and completed.

**Mr. Allison** presented an overview of the City's Wastewater Treatment Plant and identified a number of new improvements. He reported that to accommodate those improvements and leave the Pinole Corporation Yard whole with parking spaces and structures, the fencing needed to be expanded to accommodate the footprint of the plant in the long term. Also, in order to build the plant more room was needed for the contractor and materials. As a result of the Constructability Review transitioning from what was to be built to how it was to be built, and while the City of Pinole owned the property, it had been found through BCDC that there was a deed-restricted area for Bay access and BCDC permission would be required, was not expected to be a problem, but would take some time. A meeting with BCDC had been scheduled next week to address the issue. With respect to BCDC, a permanent and temporary encroachment into a dedicated area would be required, had not been forecast, and would delay the BCDC permit, but whether it would delay the overall project was unknown.

**Mr. Allison** spoke to the project schedule and explained that the 65 percent design and Constructability Review had been completed but had been delayed two months, longer than expected. He identified some of the issues involved in that delay, one of which was that HDR, Inc. had taken longer to complete the design, the City had to redesign the contact basin during the process, and there had been delays in the award of the Construction Management contract. In addition, the State Revolving Loan Fund wanted to consult with the California Department of Fish and Wildlife with respect to water quality issues which meant the involvement of the U.S. Fish and Wildlife Service, which would also delay the loan application. A further issue was adding a task since all firms in construction management had suggested both 65 percent and 90 percent review of the plans, which had added another two months to the schedule, with another month added for the advertising award process, creating a current two-month delay and an estimated five-month delay to the overall completion of the project.

As a result, **Mr. Allison** reported that some deadlines would not be met and there would have to be discussions with the State Water Board. He suggested it would take six months (with a March 3, 2015 deadline) to get loan application approval, the permit from the BCDC, and the permit from Contra Costa County.

Speaking to the project budget, **Mr. Allison** reported that construction costs had

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increased although there had been some savings in engineering.

**Mr. Allison** presented the latest in cost estimates; identified new line items such as the need to replace restrooms at Bay Front Park estimated at \$300,000 and a steel building in the corporation yard at a cost of \$500,000 that had always been in the contract but had not been identified in the preliminary engineering; park mitigation given damage to the park for a storage area; and the potential that BCDC would require the shoreline to be open to the public with potentially requirements to provide trail improvements, fencing and signage to be able to have temporary and permanent encroachment to the shoreline. The cost to repair damage to Tennant Avenue as part of the project would also have to be captured. The total budget had been estimated to be \$2.3 million greater than estimated in March 2013, although within the total amount requested from the State Revolving Loan Fund.

**Mr. Allison** responded to comments, clarified the current budget, and noted that while some of the delays could not be avoided, such as the regulatory delays, the delays related to HDR involved primarily the contact basins that were not originally to have been modified although new regulations had come out. He noted that he had not been comfortable with HDR's original design for the contact basins. He suggested that from here on out there would be few design issues that could create delays. He added, when asked, that an extension from the Water Board would have to be requested now. He also clarified the items that had added to the total project cost, and clarified that staff had been advised that a 90 percent review would have to be more formalized which would also cost more than originally anticipated.

**Pinole Councilmember Swearingen** commented that a 90 percent review was a given and should have been built into the costs. He was hopeful that the Water Board would positively consider an extension.

**Pinole Councilmember Banuelos** suggested that the 90 percent review should have been the most intense review level given that review would be setting the bid level. With respect to the need for a County permit, he spoke to his experience with the length of time required for County permits and urged an appropriate level of time for County review to avoid further delays.

As a clarification, **Mr. Allison** compared the 65 percent review to look at construction methods, change the plans or attack construction differently versus the 90 percent review which would offer a final look at the project but offer little opportunity to modify the plans.

**Hercules Councilmember Romero** stated that the problem with the catch basins should have been caught earlier given the peer review process. He asked if the extra cost of the project would be covered given the total amount requested through the State Revolving Loan Fund.

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**Hector de la Rosa, Assistant City Manager, Pinole**, advised that the City of Pinole had requested \$24 million and expected the same had been requested by the City of Hercules, which was intended to cover any overflow cost.

**Andre Gharagozian, Process and Operations, Carollo Engineers** reported, when asked by Hercules Councilmember Romero, that Carollo had performed the Peer Review of the HDR analysis on the effluent line and effluent pumping impacts to the Rodeo Sanitation District. The result of their analysis was that with the increase in flow and changes associated with the project very minor, if any, improvements would be needed at the Rodeo end to accommodate the increase in flow. He added it was close enough to warrant the improvements now and gathering operating data to see how the system would respond, although he stated it should be fine.

**Hercules Councilmember Romero** spoke to the bathrooms and the steel building to be replaced and expressed concern that the City of Hercules was being asked to replace an old facility with a new facility. He recommended negotiations between the two cities to address that concern. He also had a concern for the cost to repair Tennant Avenue and asked for a breakdown of the costs involved.

**Pinole Councilmember Banuelos** explained that those costs would be a result of repairs to the Wastewater Treatment Plant and the City of Pinole would get no “freebies” and was assuming some unmitigated circumstances to address that work. He suggested that \$300,000 for the bathrooms appeared to be high and he asked for a clarification of that estimate.

**Mr. Allison** clarified that there was no infrastructure involved and the estimate had been for aboveground replacements only.

**Hercules Vice Mayor McCoy** expressed concern that in just over a year the timeframe had slipped and costs had increased. She suggested it would be prudent to make sure that the State loan was sufficient to cover the known and other potential cost increases. She was concerned with the delays and wanted to be more mindful of what needed to be done, particularly since staff had already gone back to the Water Board once to ask for an extension and she suggested the Board might at some point question the credibility of both Pinole and Hercules. She supported a tighter schedule moving forward and asked if the current schedule could be tightened. She sought some discussion between Pinole and Hercules staff as to the additional line items, particularly those that appeared to offer little benefit to the City of Hercules.

**Pinole Councilmember Swearingen** concurred with the concerns related to delay and increased cost, although he clarified that there had been savings with

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the project when the outfall line had not been required by the Water Board.

With respect to requiring Water Board approval, **Mr. Allison** clarified that Water Board staff had previously granted the kinds of extensions that they could although the next extension would involve the delivery date of the entire project which required approval from the Water Board itself.

Speaking to the Department of Fish and Wildlife in terms of the Environmental Impact Report (EIR), **Hercules Vice Mayor McCoy** asked if more EIR work would need to be done for the loans to be approved, to which **Mr. Allison** noted that the State was concerned that while the proposed plant upgrades would improve the quality of water the impacts to the fish in the Bay had not been evaluated. He had been surprised that a positive could be received negatively. Staff had been in contact with those who might be able to assist in facilitating that issue.

In response to Hercules Councilmember Romero, **Mr. Allison** reported that the park would be open during plant construction and a temporary restroom would probably have to be provided.

**6. CONSTRUCTABILITY REVIEW: Receive a presentation from Carollo Engineers on the Constructability Review**

**Andre Gharagozian, Process and Operations, Carollo Engineers** described the different levels of review that would have been performed on the project by the time it was complete; the Peer Review which had been completed, the Constructability Review on the 65 percent design, and a Constructability Review (also called the Biddability Review) on the 90 percent drawings. He identified the 132 comments received on the Constructability Review performed on the 65 percent design from July 3 to August 11, 2014, described the particulars of that analysis, noted the meetings that had been held, stated that the 65 percent documents had been well put together, and it had been determined that the technologies and sizing of the improvements were on target.

**Michael Warriner, Construction Manager, Carollo Engineers**, stated with respect to construction sequence, scheduling, and staging, that Carollo had analyzed other jobs they had done for other sites with similar facilities and structures and the time it had taken to build those structures to prepare a more detailed plan for how long it would take the construction, and had then considered the timeframe of deadlines for construction and what needed to happen to reduce that timeframe, and to reduce some of the costs.

**Mr. Warriner** stated that some of the construction would have to be re-sequenced to make it work better. He referenced the added activities in the construction; stated the contractor would have to build temporary park trails

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alongside the existing trails to allow public access at all times; temporary equipment would have to be brought in to allow phased work to continue on schedule; major equipment submittals would also need to be expedited in order to maintain the schedule; and park restoration activities would be the last construction activity.

Highlighting the Constructability Review, **Mr. Warriner** stated the additional easement would allow easier access to upgrade areas for construction equipment, reduce the bid price, and an increased staging area would provide storage.

**Mr. Warriner** stated the next steps would be to proceed with the 90 percent design, incorporating the comments as appropriate, marrying Carollo's front end documents with the City's specific requirements and HDR's design to have the tightest possible set of construction documents. The buildings to be demolished should be tested for lead and asbestos and if identified ahead of time the contractor would account for it in their bid, but if not identified it would be an extra change order at the end. Discussions with BCDC would continue and the 90 percent plans would be reviewed in the future.

**Hercules Councilmember Romero** asked about the chlorine disinfection, now at three times the originally estimated cost, to which **Mr. Allison** explained that had not come out of the Constructability Review, it was an operational issue that had been found through the preliminary design where the contact basin was too small and did not provide the plant manager the comfort of having adequate time in the contact basin to kill the bacteria. The HDR proposed design did not expand the contact basins whatsoever and the new design would require building contact basins three times as large as the existing contact basins.

**Ron Tobey, Operations Manager, Pinole**, noted several variables involved in that issue in that when originally designed the contact basin had tested for a certain organism and staff had been comfortable with HDR's design in meeting the limits. The State now required the testing of a new organism. While not an initial problem, that had since changed. He affirmed that the contact basin was actually the chlorine disinfection.

**Hercules Councilmember Romero** suggested there was no need to remove the bathroom and he suggested that bathroom could be retained, saving \$300,000.

**Mr. Allison** stated that element of the design could be returned at the next meeting for further discussion.

**Pinole Mayor Banuelos** verified that the contract included a cost for demolition and the removal of hazardous materials. He also verified that the park restoration activities were outside the schedule.

**Pinole Councilmember Swearingen** verified that the street repair would also be

outside the project schedule. As to the asbestos hazardous materials potential, he suggested that the last major upgrade had been in 1982 and there should therefore be no hazmat problem with asbestos given that problems where asbestos had not been encapsulated should have ended in 1978.

**Hercules Vice Mayor McCoy** verified that the lead and asbestos had already been factored in. She asked for a larger version of the chart of Highlights of Constructability Review and Construction Sequencing and Schedule, and that it be updated periodically. She also asked for updated information on the flood walls around the plant and why \$1.5 million might have to be factored in.

**7. FISCAL AGREEMENT: Receive a presentation on the Fiscal Agreement**

**Hercules Vice Mayor McCoy** stated that the Fiscal Agreement was not yet finalized and suggested it would be better to discuss it after it had been finalized, potentially by the next meeting. The Wastewater Subcommittee concurred.

**8. ADDITIONAL COMMENTS AND REQUESTS FROM THE SUBCOMMITTEE**

**Hercules Councilmember Romero** commented with respect to the minutes that there were some points that had not been reflected in the last meeting minutes. He also requested that the minutes reflect the vote and the responses from staff.

**9. ADJOURNMENT**

The meeting was adjourned at approximately 10:30 A.M. to a regular meeting on October 16, 2014 at 8:30 A.M. in the City of Pinole.

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### **AGENDA ITEM 5**

**TO: WASTEWATER SUBCOMMITTEE**

**SUBMITTED BY: DEAN ALLISON** 

**MEETING DATE: NOVEMBER 20, 2014**

**SUBJECT: FISCAL AGREEMENT**

### **RECOMMENDATIONS**

Receive a presentation of the Fiscal Agreement

### **DISCUSSION**

Staff from both cities continue to prepare a Fiscal Agreement outlining how the cities will fund and cash flow the plant upgrades. At the time the agenda packet was prepared, the document was a work in progress. Staff does plan to distribute a hard copy of the proposed agreement at the meeting, to begin discussions.



### **AGENDA ITEM 6**

**TO: WASTEWATER SUBCOMMITTEE**

**SUBMITTED BY: DEAN ALLISON**

**MEETING DATE: NOVEMBER 20, 2014**

**SUBJECT: PROJECT STATUS REPORT**

The project continues to proceed in accordance with the schedule provided to the committee in September 2014. Current project activities include the preparation of the final engineering plans, processing a permit with the Bay Conservation and Development Commission (BCDC), processing an encroachment permit with the County of Contra Costa, and processing the loan applications with the State Clean Water State Revolving Loan (SRLF). Each activity is on an independent track as illustrated on the attached schedule.

The critical path item continues to be the preparation of final engineering plans, which are expected to be completed in March 2015. The next most critical item is the BCDC permit.

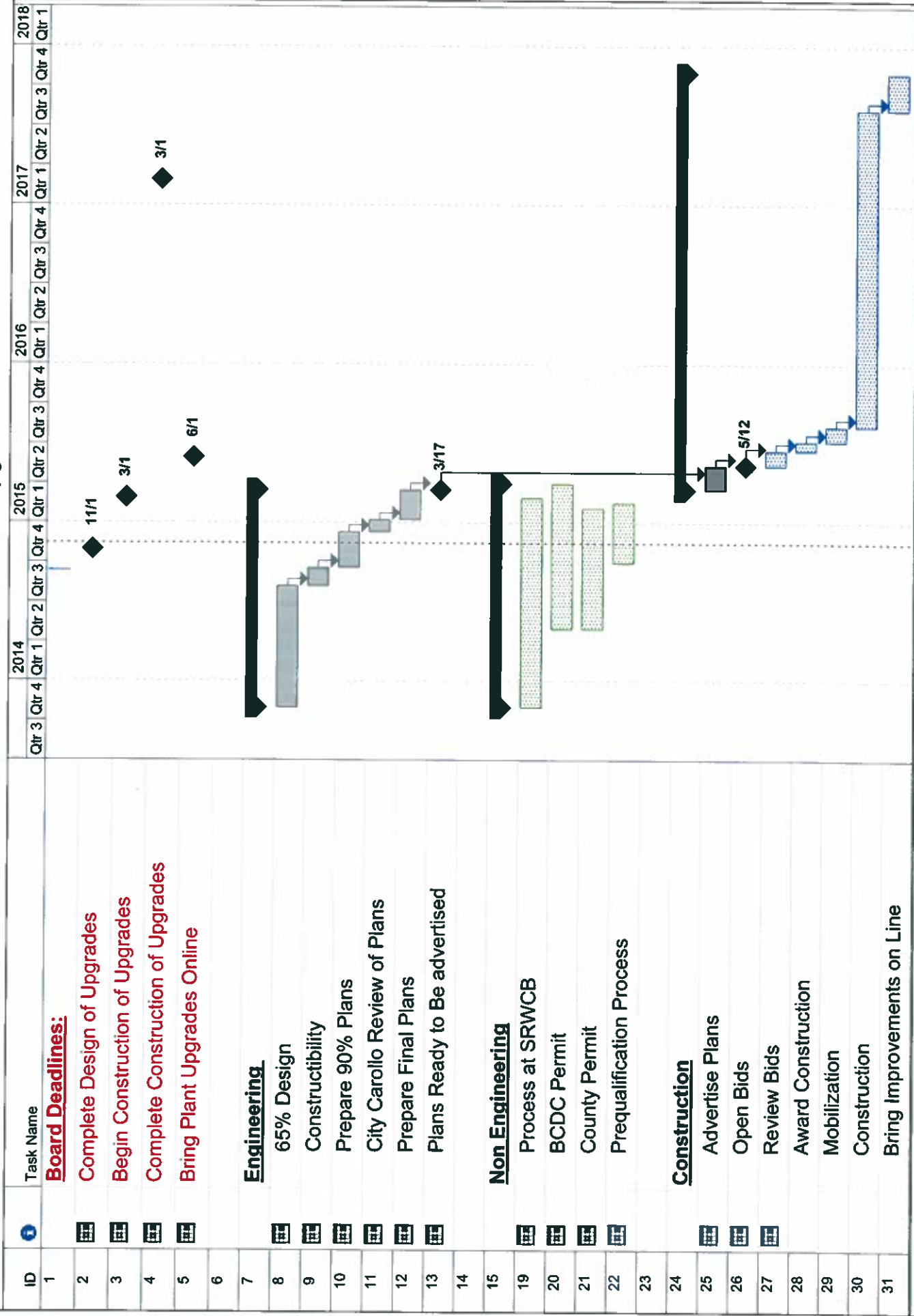
The City was notified that the Office of Historic Preservation (OHP) has signed off on the project. The City has also been notified by BCDC that our application has been deemed to be a "non-material amendment" to our existing permit, and thus would follow a more expedited process. The project team will meet with the County on Tuesday morning November 18, 2014, and staff will provide a verbal report to the subcommittee on the status of the County permit.

The project budget remains unchanged as presented in September.

#### **Attachments**

Project Schedule  
Engineering Cost Estimate Plant Upgrades  
Letter from the Office of Historic Preservation  
Notice from BCDC

# Pinole Hercules Waste Water Plant Upgrades



# Engineering Cost Estimate Plant Upgrades

Item	Engineer's Estimate Dated March 2013		Engineer's Estimate Dated August 2014	
	In 2016 Dollars		In 2016 Dollars	
Headworks	\$	5,507,926	\$	6,167,000
Electrical	\$	2,340,041	\$	3,013,000
Secondary System	\$	14,350,410	\$	14,190,000
Chlorine Disinfection	\$	866,477	\$	2,553,000
Effluent Pumping	\$	1,138,010	\$	1,235,000
Solids Handling	\$	3,682,253	\$	4,772,000
Confluence Structure Modification with Rodeo	\$	280,363	\$	32,000
Subtotal	\$	28,165,480	\$	31,962,000
Construction Contingency	\$	4,982,520	\$	4,150,000
Total Construction	\$	33,148,000	\$	36,112,000
Estimated cost of Engineering	\$	8,287,000		
Preliminary Engineering (Actual)			\$	700,000
Final Design (Actual)			\$	2,700,000
Construction Management (Actual)			\$	2,000,000
Engineering During Construction (Est)			\$	1,000,000
Subtotal Engineering	\$	8,287,000	\$	6,400,000
<b>SUBTOTAL</b>	\$	<b>41,435,000</b>	\$	<b>42,512,000</b>
<b>NEW LINE ITEMS:</b>				
Flood Walls around plant (\$1.5M, currently not included)	\$	-	\$	-
Replace Public Restroom	\$	300,000	\$	300,000
Replace Corp Yard Storage Building	\$	500,000	\$	500,000
Park Mitigation	\$	200,000	\$	200,000
Street Mitigation	\$	200,000	\$	200,000
<b>GRAND TOTAL</b>	\$	<b>42,635,000</b>	\$	<b>43,712,000</b>



**Dean Allison**

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**Subject:** FW: SHPO Consultation  
**Attachments:** SHPO\_response.pdf

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**From:** Gaytan, Carina@Waterboards [<mailto:Carina.Gaytan@waterboards.ca.gov>]

**Sent:** Wednesday, November 12, 2014 1:19 PM

**To:** Nick Pappani

**Cc:** Dean Allison ([DAllison@ci.pinole.ca.us](mailto:DAllison@ci.pinole.ca.us)); HDeLaRosa@ci.pinole.ca.us; Fegurgur, Joshua@Waterboards; Kashkoli, Ahmad@Waterboards; Jeff Brown ([JBrown@ci.hercules.ca.us](mailto:JBrown@ci.hercules.ca.us))

**Subject:** SHPO Consultation

Hello all,

I just wanted to let you know that we have received a very fast SHPO concurrence for this Project. I have attached the letter for your records. No further action needs to be taken.

Thank you,

Carina Gaytan  
Environmental Scientist  
Division of Financial Assistance  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814  
Telephone: (916) 341-5642

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

1725 23<sup>rd</sup> Street, Suite 100  
SACRAMENTO, CA 95816-7100  
(916) 445-7000 Fax: (916) 445-7053  
calshpo@parks.ca.gov  
www.ohp.parks.ca.gov



November 7, 2014

Refer to: EPA\_2014\_1023\_001

Carina Gaytan  
Division of Financial Assistance  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

RE: Pinole-Hercules Water Pollution Control Plant Improvement Project, City of Pinole,  
Contra Costa County, CA

Dear Ms. Gaytan:

Thank you for requesting my review and comment with regard to the above-referenced undertaking. You do so on behalf of the United States Environmental Protection Agency (EPA) in an effort to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as amended, and its implementing regulation found at 36 CFR Part 800. You are requesting I concur with a Finding of no Historic Properties Affected.

The State Water Resources Control Board plans to issue EPA funds to the City of Pinole (City) to improve the Pinole-Hercules Water Pollution Control Plant. Project components include the following:

- Demolition of Headworks/Influent Pump Station, Maintenance Shop, Solids Handling Facility, Gravity Sludge Thickener, Secondary Clarifiers #1 and #2, Primary Clarifier #3, Secondary Clarifier Distribution Box, Digester Gas Flare, Caustic Storage Area, Sodium Bisulfate Storage Area, and Corporation Yard Building
- Construction of Pump Station and Headworks facility, two flowmeters, three clarifiers, a Solid Handling Facility, an Electrical Building, and a Disinfection Chemical Storage Building
- Various modifications to the Effluent Pump Station, Blower Building, and Polymer Storage Building, and Chlorine Contact Basin

Ground disturbing activity will include trenching between the buildings and up to 30 feet of below grade excavation to construct Secondary Clarifiers #1 and #2.

You define the Area of Potential Effects (APE) as the entire 4.5 acre Pinole Water Pollution Plant and an 8,500 square foot area between the plant and Bayfront Park. In addition to your letter, you have provided maps, evidence of Native American consultation, and the following study in support of this undertaking:

- *Cultural Resources Study for the Pinole Water Pollution Control Plant Improvement Project, Pinole, Contra Costa County, California* (Tom Origer & Associates: August 2014)

Records searches and an archaeological field survey of the project area did not reveal the presence of historic properties in the APE. The Primary Clarifier, Digester, Headworks/Influent Pump Station, and Maintenance Shop date from 1955, but were not determined eligible for listing on the National Register of Historic Places under all applicable criteria. Native American tribal groups and entities contacted in an effort to further identify historic properties in the APE did not respond. In accordance with the identification measures laid outlined the 2010 Environmental Impact Report drafted for the project, an archaeologist will be present during construction to monitor excavation.

Having reviewed your submittal, I have the following comments:

- 1) I concur with your Finding of Effect.
- 2) I have no objections to your delineation of the APE;
- 3) I concur that the structures to be demolished are ineligible for listing on the NRHP under National Register Criteria A, B, and C.
- 4) Please be reminded that in the event of an unanticipated discovery or a change in the scale or scope of the project, you may have additional responsibilities under 36 CFR Part 800.

Thank you for considering historic resources during project planning. If you have any questions or comments, please contact Tristan Tozer of my staff at (916) 445-7027 or email at [Tristan.Tozer@parks.ca.gov](mailto:Tristan.Tozer@parks.ca.gov).

Sincerely,



Carol Roland-Nawi, Ph. D.  
State Historic Preservation Officer

# San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

**RECEIVED**

**NOV 10 2014**

**CITY OF PINOLE  
CITY MANAGER'S OFFICE**

November 7, 2014

**TO:** Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653;  
larry.goldzband@bcdc.ca.gov)  
Bob Batha, Chief of Permits (415/352-3612; bob.batha@bcdc.ca.gov)

**SUBJECT: Report of Permit Applications and Federal Consistency Actions, Including  
Amendment Requests, Received for Processing  
(For Commission Information Only)**

This report lists the applications and federal consistency determinations, including amendment requests, which have been received by the Commission between October 15, 2014 and November 1, 2014. This listing is provided to allow members of the public who have an interest in a particular area or project to have the earliest possible opportunity to become involved in the Commission's review and analysis of the project. Inquiries should be directed to the staff member assigned to the project.

## **BCDC Permit Applications, Consistency Determinations, and Amendments Received for Processing**

<b>Application Number</b>	<b>Applicant</b>	<b>Location</b>	<b>Project Summary</b>	<b>Staff Contact</b>
Application for Non-Material Amendment No. M1983.109.03	City of Pinole	Within the 100-foot shoreline band, at 11 Tennent Avenue, in the City of Pinole, Contra Costa County.	Undertake improvements at the Pinole/Hercules Water Pollution Control Plant that will reduce the size of the existing public access area and install public access improvements.	Erik Buehmann erik.buehmann@bcdc.ca.gov 415-352-3645
Application for Non-Material Amendment No. 1977.001.18	San Mateo County Harbor District	In the Bay, at the Oyster Point Marina, at 400 Oyster Point Boulevard, in the City of South San Francisco, San Mateo County.	Increase live-aboard capacity from 10 to 20 percent of the total vessels at the marina.	Erik Buehmann erik.buehmann@bcdc.ca.gov 415-352-3645

Application Number	Applicant	Location	Project Summary	Staff Contact
Application for Non-Material Amendment No. M1995.017.01	Chun Ming Liu	Within the 100-foot shoreline band, at 1051 Pacific Marina, in the City of Alameda, Alameda County.	After-the-fact application to conduct renovations at a restaurant.	Adrienne Klein adrienne.klein@bcdcc.ca.gov 415-352-3609
Application for Amendment to Consistency Determination No. C2014.003.06	Military Ocean Terminal Concord (MOTCO)	In the Bay, at the Military Ocean Terminal Concord facility, in the City of Concord, Contra Costa County.	Back-fill environmental testing boring holes associated with the proposed reconstruction of Pier 2.	Jaime Michaels jaime.michaels@bcdcc.ca.gov 415-352-3613
Application for Major Permit No. 2012.005.00	City of Hercules	In the Bay and within the 100-foot shoreline band, between Hercules Point and Bayfront Boulevard, including a portion of Refugio Creek, in the City of Hercules, Contra Costa County.	Develop a public pathway system as part of the development of a multi-modal transit facility.	Ming Yeung ming.yeung@bcdcc.ca.gov 415-352-3616



**AGENDA ITEM 7**

**TO: WASTEWATER SUBCOMMITTEE**  
**SUBMITTED BY: DEAN ALLISON**   
**MEETING DATE: NOVEMBER 20, 2014**  
**SUBJECT: PROJECT LABOR AGREEMENT**

**RECOMMENDATIONS**

Receive an update on a possible Project Labor Agreement for the Plant Upgrade Project.

**DISCUSSION**

On Tuesday evening November 18, 2014, the City Council for the City of Pinole discussed a possible Project Labor Agreement for the Plant Upgrade Project. Attached is a copy of the City Council Staff Report.

**ATTACHMENT**

November 18, 2014 Pinole City Council Staff Report





## **CITY COUNCIL REPORT 2014-116**

**9A**

**DATE: NOVEMBER 18, 2014**

**TO: MAYOR AND COUNCIL**

**FROM: BELINDA B. ESPINOSA, CITY MANAGER**

**SUBJECT: PROVIDE DIRECTION TO THE CITY MANAGER ON USE OF A  
PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES  
WASTEWATER TREATMENT PLANT UPGRADE PROJECT**

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### **RECOMMENDATION**

It is recommended that the City Council provide direction to the City Manager to either:

**1. Approve a Resolution in Support of Using a Project Labor Agreement**

Consider a resolution directing the City Manager and the City Attorney to develop and implement a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project consistent with Public Contract Code Section 2500, et. Seq. in a form approved by the City Attorney, or

**2. Approve a Resolution In Opposition of Using of a Project Labor Agreement**

Consider a resolution directing the City Manager not to develop and implement a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project.

Should the City Council approve the resolution in support of establishing a Project Labor Agreement for the project, it is recommended that the City Council consider appointing a City Council Subcommittee to work with the City Manager and City Attorney on identifying and establishing the deal points for the Project Labor Agreement.

### **BACKGROUND**

The City of Pinole is currently undertaking an upgrade of the Pinole-Hercules Wastewater Plant. That upgrade which is estimated to cost \$42 million is now in the final engineering design phase. Once engineering design is completed (estimated to be in late Fall), Staff will begin the process of preparing bid documents and technical

specifications in order to solicit prequalified general contractors and to advertise the project for bid at the first of the new year (2015).

The City Council has received information about Project Labor Agreements and has been considering whether or not the City should enter into a Project Labor Agreement for this project. The City Council has discussed this subject at our September 30 and October 7 City Council meetings and held a Special Meeting on October 28, 2014.

At this special meeting, the Council heard public testimony and presentations from representatives of the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors as well as general contractors. Staff is not making a recommendation on this topic as this is strictly a City Council policy decision.

### **REVIEW AND ANALYSIS**

There are three main issues that are central to the discussion regarding Project Labor Agreements. Included are:

- Does a Project Labor Agreement increase the cost of the project and if so how?
- What is Local Hiring under a Project Labor Agreement?
- Will the City receive an adequate number of bidders to assure a competitive price with a Project Labor Agreement?

#### **DOES A PROJECT LABOR AGREEMENT INCREASE THE COST OF THE PROJECT AND IF SO, HOW?**

We have identified a couple of areas where a Project Labor Agreement might increase the cost of a project. Included are:

- **Contracted Labor Negotiator**

If the City Council directs that a Project Labor Agreement is required for the Wastewater Treatment Plant Project, a contracted labor negotiator will be required. Current staff and the City Attorney's office do not have the requisite experience in this area of expertise.

- **Development and Legal Review of the Project Labor Agreement**

There are numerous Project Labor Agreements throughout the county and from other entities that can be used as "template" for the agreement. However, each

Project Labor Agreement has unique characteristics specific to the project that have to be negotiated and reviewed by the City Attorney. There may be other points that are desired to be placed in the Project Labor Agreement.

Furthermore, the City Attorney will have to be involved in the preparation of the Project Labor Agreement to ensure that it complies with the new legal requirements for Project Labor Agreements set forth in Public Contract Code Section 2500, which were adopted in 2012, including:

- Prohibiting discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project. In other words, a PLA cannot discriminate against any employees of a non-union contractor.
- Permitting all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.
- Containing an agreed-upon protocol concerning drug testing for workers who will be employed on the project.
- Guaranteeing against work stoppages, strikes, lockouts, and similar disruptions of the project.
- Providing that disputes arising from the agreement shall be resolved by a neutral arbitrator.

- **Administration and Monitoring of the Project Labor Agreement**

Once a Project Labor Agreement is in place, the City will benefit from hiring a professional consultant who can provide services to administer and monitor the deal points included in the agreement. Some of these include:

- Monitoring contractor compliance with terms of the Project Labor Agreement;
- Monitoring and enforcing Local Hiring requirements including resolving all claims of non compliance;
- Ensuring that non-union contractors deduct union initiation fees and union dues from all non union employees;
- Monitoring and assuring that the contractor is hiring under the union hall rules and the ratio of core workers to non- core workers is appropriate;

- Negotiating any amendments to the Project Labor Agreement;
- Tracking and recording all required reports and notices; and
- Monitoring and resolve disputes, grievances, and disagreements

- **WHAT IS LOCAL HIRING UNDER A PROJECT LABOR AGREEMENT?**

A Project Labor Agreement is a mechanism that may increase local hiring efforts. The Project Labor Agreement will specify how a contractor assembles their workforce. The City Council has expressed a desire for assuring "local hire" however there are two models that can be utilized.

The first is hiring strictly from the Union hall. That is to say, that the contractor may only bring to the job his/her Superintendents, Foremen and those with expertise specific to the contractor's means and methods and outside of the construction trades. All hiring after that must come directly from the union hall. In addition to the above, the Union Hall hiring practice will have to be reviewed in light of the new legal requirement to ensure that a Project Labor Agreement does not discriminate against workers who are not union members.

The second model is the use of the "Core Worker" concept. This procedure is negotiated through the Project Labor Agreement. The Project Labor Agreement could specify that a contractor/subcontractor is allowed to have a certain number of core employees below the Journeyman level. If at certain times, the project requires more than the number of allowable core employees, the contractor may be required to follow a specific agreed upon procedure to fill the remaining positions from the local Union Hall.

Finally, the Project Labor Agreement can also include establishing "bands of local areas" whereby specific regions are established as priority areas from which local workers are hired. In other words, the City Council might want to negotiate for union hall workers from West Contra Costa County first and then Contra Costa County and so on.

The City will also maintain its existing policy to require any bidder for this project to use good faith efforts to outreach to local contractors and subcontractors prior to submitting a competitive bid for this Project. Any contractor who does not perform the requisite outreach to local subcontractors will be deemed "non-responsive" and their bid will be rejected accordingly.

- **WILL THE CITY RECEIVE AN ADEQUATE NUMBER OF BIDDERS TO ASSURE A COMPETITIVE PRICE?**

There are two sides to this issue. Just as many people interviewed responded yes and no. For a project this size, a substantial contractor will be required. One who can meet all of the pre-qualification requirements and provide the insurance and bonding that are required for the project. This is also a specialty project in that we will be requiring a contractor with water/wastewater experience. Carollo is confident that we should receive no less than 7 bidders. These bidders will most likely be union and non-union contractors and come from more than just our region given the size of the project.

Contractors of this size most likely will have experience working under a Project Labor Agreement. However, the sub-contractors may have less or no experience working under a Project Labor Agreement. We will not know until we bid the project. If the City Council determines that we have not received an "adequate" number of bidders, and thus not a competitive enough price, we can rebid the project.

### **FISCAL IMPACT**

If the City Council directs that the City should pursue a Project Labor Agreement there will be additional estimated costs as follows:

- **Labor Negotiator** **\$75,000 to \$120,000**

Use of a contracted negotiator is necessary for the Project Labor Agreement. While Staff has experience with labor negotiations, Staff has had no experience with this concept of the construction profession and would require outside expertise. There are a variety of firms within the region that do this type of work.

- **Legal Fees for the City Attorney's Office** **\$20,000**

As previously mentioned, there are a number of templates that can be used if the City Council directs that Staff pursue use a Project Labor Agreement. However, each agency and project is unique and has nuances. The City Council may ask for new deal points or to delete other deal points from these templates. Legal review by the City Attorney's office is necessary to ensure that the City's Project Labor Agreement complies with the Council's direction and with existing law.

Further, it is anticipated that we would contract with an outside law firm who specializes in these agreements to develop the Project Labor Agreement.

- **Project Labor Agreement Administration and Monitoring** **\$20,000 to \$50,000**

At the current time, we have contracted with Carollo Engineers to perform construction management activities for the wastewater upgrade project. Carollo

could also conduct the administration and monitoring of a Project Labor Agreement if the City Council directs that we enter into one for this project.

Some of these activities are included in the current contract with Carollo Engineers, however it is estimated that it would cost an additional \$20,000-\$50,000 over the life of the two year project for Carollo to conduct the services that is not in the current contract.

### **ATTACHMENTS**

- |              |  |
|--------------|--|
| Attachment A | Resolution in Support of Using a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project      |
| Attachment B | Resolution in Opposition for Using of Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project |
| Attachment C | October 28, 2014 Special City Council Meeting Staff Report   |



**RESOLUTION NO. 2014-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DIRECTING THE CITY MANAGER AND THE CITY ATTORNEY TO ENTER INTO A PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES WATER POLLUTION CONTROL PLANT UPGRADE PROJECT**

**WHEREAS**, the City of Pinole is currently undertaking an upgrade project to the Pinole-Hercules Water Pollution Control Plant ("Project"); and

**WHEREAS**, the Project, estimated to cost \$42 million, is now in the final design engineering phase, which is estimated to be completed in late Fall 2014; and

**WHEREAS**, Staff is concurrently preparing the prequalification questionnaires, the invitation to bids, and all project specifications in order to advertise the Project for bid in the First Quarter of 2015; and

**WHEREAS**, the City Council has conducted two study sessions on October 7, and 28, 2014 to consider undertaking a Project Labor Agreement for this Project and took public testimony from proponents of both sides of the issue including representatives from the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors Association and contractors, as well as members of the public; and

**WHEREAS**, the City Council also entertained additional public testimony on November 18, 2014 and deliberated the merits of a Project Labor Agreement; and

**WHEREAS**, based on the testimony received, as well as the information provided by the Staff, the City Council desires to ensure that the Project incorporates the benefits of hiring local contractors and employing apprentices for the Project, among other things; and

**WHEREAS**, a Project Labor Agreement for the Project is the mechanism to assure these goals and to ensure that there are no labor disruptions, strikes or lock-outs during Project construction; and

**WHEREAS**, the Council believes that it is in the best interest of the City of Pinole to enter into a Project Labor Agreement for the Project;

**NOW THEREFORE, BE IT RESOLVED**, as follows:

1. That the above recitals are true and correct and are incorporated by this reference.

**ATTACHMENT A**

2. That the City Manager and the City Attorney are directed to retain the services of a professional firm that has the qualifications, skills, experience and expertise to negotiate and prepare a Project Labor Agreement for the Pinole-Hercules Water Pollution Control Plant Upgrade Project in a form that complies with Public Contract Code Section 2500, and is approved by the City Attorney.

3. That the City Manager is authorized to appropriate and expend additional funds not to exceed \$200,000 from the Sewer Enterprise Fund to prepare the Project Labor Agreement.

4. The City Manager, or her designated representatives, are hereby authorized and directed, on behalf of the City of Pinole, to execute all documents prepared by the City Attorney related to the Project Labor Agreement, and to make all approvals, award all agreements, and take all actions necessary or appropriate to carry out and implement the terms of this Resolution.

**PASSED AND ADOPTED** at a regular meeting of the Pinole City Council held on the **18th** day of **November, 2014** by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

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Patricia Athenour, MMC  
City Clerk

**RESOLUTION NO. 2014-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DIRECTING THE CITY MANAGER AND CITY ATTORNEY NOT TO PURSUE A PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES WATER POLLUTION CONTROL PLANT UPGRADE PROJECT**

**WHEREAS**, the City of Pinole is currently undertaking an upgrade project to the Pinole-Hercules Water Pollution Control Plant ("Project"); and

**WHEREAS**, the Project, estimated to cost \$42 million, is now in the final design engineering phase, which is estimated to be completed in late Fall 2014; and

**WHEREAS**, Staff is concurrently preparing the prequalification questionnaires, the invitation to bids, and all project specifications in order to advertise the Project for bid in the First Quarter of 2015; and

**WHEREAS**, the City Council has conducted two study sessions on October 7, and 28, 2014 to consider undertaking a Project Labor Agreement for this Project and took public testimony from proponents of both sides of the issue including representatives from the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors Association and contractors, as well as members of the public; and

**WHEREAS**, the City Council also entertained additional public testimony on November 18, 2014 and deliberated the merits of a Project Labor Agreement; and

**WHEREAS**, the City Council has determined that the cost to implement a Project Labor Agreement is not financially feasible or desired at this time; and

**WHEREAS**, the City Council has determined that it is not in the best interest of the City of Pinole to enter into a Project Labor Agreement for this Project.

**NOW THEREFORE, BE IT RESOLVED** that the Pinole City Council does hereby resolve that use of a Project Labor Agreement will not be undertaken for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project and as such is directing the City Manager and the City Attorney not to pursue the development of a Project Labor Agreement for this project.

**PASSED AND ADOPTED** at a regular meeting of the Pinole City Council held on the **18th** day of **November, 2014** by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

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Patricia Athenour, MMC  
City Clerk

## **Attachment C**

### **Questions Regarding Project Labor Agreements October 7, 2014 City Council Meeting October 28, 2014 Special meeting**

***Q 1: What will the attorney's fees cost?***

***Response:***

At this time, if Staff were directed to use a Project Labor Agreement that would necessitate hiring outside counsel and an outside labor negotiator. It is estimated that based on the size of the project, attorney's fees could be in the range of \$15,000 to \$20,000. We are currently researching the cost of labor negotiator.

It is important to note, that neither the City Staff nor the City Attorney have experience in negotiating Project Labor Agreements.

***Q 2: Does a Project Labor Agreement add to the cost of a project?***

***Response:***

At this time, we have no validation that a Project Labor Agreement increases the project costs. It is correct that both non-union and union contractors have to pay prevailing wage on the project.

It is important to note that "prevailing wage" is determined by the State Department of Industrial relations for various classifications in the trades and includes base salary plus fringe benefits such as retirement, health insurance, vacation, holiday pay and training. If a non-union contractor provides these programs on behalf of their employee(s), then there may be an additional expense to him/her if he/she decides to pay the difference in the cost between what he/she provides and on the Prevailing Wage Schedule.

***Q 3: How would extra costs, if any be funded; through the General Fund or the Wastewater Fund?***

***Response:***

Any costs related to the project are a part of the project costs and as such would be funded from the Wastewater Fund.

**Q 4: *Would the City of Hercules as our partners in the project pay their share of these costs?***

**Response:**

All costs associated with the project will be shared on a 50/50 basis.

**Q 5: *Is it true that cost overruns and change orders are a result of Project Labor agreements?***

**Response:**

There is no evidence that this is true. Any project whether union or non-union, under a Project Labor Agreement or not, can have cost over runs and change orders. It is anticipated that our project will have change orders due to the fact that we will be operating the plant at the same time we will be rebuilding a new one, the limited footprint of the space on which to do so, and all of the unknowns underneath the plant once construction begins.

**Q 6: *Can you have a Prequalification Process with a Project Labor Agreement?***

**Response:**

You can have a Pre Qualification process with or without a Project Labor Agreement. They are independent agreements. The City Staff is planning on a Prequalification process for the general contractors that will be bidding on the project. That process includes criteria, but not necessarily limited to the following categories:

1. Financial Solvency
2. History of Claims and Litigation
3. Prevailing Wages
4. Project Experience
5. Safety Record

**Q 7: *Does a Prequalification Process increase the cost of a project?***

**Response:**

No it does not increase the cost of the project but might increase the cost of staff time to perform the pre-qualification process which has been our process on most major complex projects.

**Q 8: *Can you have a Project Labor Agreement that pays less than or more than prevailing wages?***



***Response:***

Project Labor Agreements require the payment of no less than prevailing wages.

Workers on most federal, state and local government projects, including ours must pay prevailing wages at a minimum. The Wastewater Treatment Plant Upgrade Project will be required to be at prevailing wage. Carollo and Associates will be responsible for monitoring this process and doing their best to assure that the General Contractor and all subcontractors are paying all trade classifications under the appropriate prevailing wage schedule. They will be monitoring all payroll records prior to them being submitted to the State.

Because the City is planning on using State Revolving Loan Funds to finance the project, it will also be a requirement of the loan that the City follows Davis-Bacon (which established prevailing wage). In fact, there may be an additional audit that the State will perform as they have their own Davis-Bacon representative.

***Q 9: If Project Labor Agreements increase costs, where do increased project costs come from?***

***Response:***

We have found that Project Labor Agreements may increase project costs related to three areas: Labor Negotiator, Legal Review and Project Labor Agreement Administration and Monitoring under certain circumstances. Specifically, increased costs are related to hiring a contract labor negotiator and for legal review of the agreement. The City will bear the costs of the additional attorney's fees for development and the contracted labor negotiator (development and review of the Project Labor Agreement) should the City Council approve entering into one.

In addition to the above, the only other area is related to whether or not the non-union contractor provides retirement and health benefits. If a non-union contractor decides to continue paying these programs on behalf of their employee(s), then there is an additional expense to him/her. If there is a difference between what the Prevailing Wage Schedule requires and what the contractor provides, the contractor has to pay the difference either into the Union Trust Fund or directly to the employee. This has to be negotiated.

***Q 10: How many labor unions would be included on the project and a signatory to a Project Labor Agreement?***

***Response:***

At the present time, we believe there will be at least twelve labor unions. However, there will only be one Project Labor Agreement which would be negotiated with the Contra Costa County Building and Construction Trades as they represent all of the trades. Included would be:

Plumbers/Pipefitters	Operating Engineers
Electricians	Sheet Metal Workers
Carpenters	Laborers
Ironworkers	Cement Masons
Painters	Surveyors
Teamsters/Truck Driver	Pile Driver (possibly attached to operating engineers)

***Q 11: Will there be individual Project Labor Agreements for each of the trades on the job or one Project Labor Agreement that encompassed terms and conditions for all of the represented labor on the project?***

***Response:***

No, there will be one Project Labor Agreement however all of the trade unions are signatory to that document through the Contra Costa County Building and Construction Trades.

***Q 12: Was there a Project Labor Agreement when Pinole City Hall was built?***

***Response:***

In 1996, the City Council adopted a Project Labor Agreement for the City Hall project. A general contractor, West Coast Contractors, filed a petition for writ of mandate challenging the Project Labor Agreement on the grounds that the Council lacked the authority to require one. The Court considered the case and held that the Project Labor Agreement was illegal under existing law (1996).

In summary, West Coast won. At that time, there was apparently no California case law on point, and the trial court looked to federal law. A writ was issued, ordering the City to nullify the Project Labor Agreement requirement.

In 1997, the law changed. The trade council (labor union group) petitioned for reconsideration based on *Associated Builders & Contractors, Inc. v. San Francisco Airports Com.*, 59 Cal. App. 4<sup>th</sup> 25 (1997), but the trial court denied the petition. Courts are not inclined to grant retroactive review of decisions that were already made in the past, especially where the project was already under construction. In short, the City lost the case and had to pay attorney's fees to West Coast contractors.

The City filed an appeal on the attorneys' fees award, *West Coast Contractors, Inc. v. City of Pinole Redevelopment Agency*, A082935, in the first appellate district. The Court of Appeal cut the attorneys' fees in half. But it did not (and could not) reconsider the issue of the project labor agreement. The City was represented by former City Attorney David Levy, among others.

If this case were decided today, the decision would be in favor of a Project Labor Agreement due to the changes in the law since 1997, including the adoption of the Public Contract Code Section 2500, which I presented to you last Tuesday.

***Q 13: Were there Project Labor Agreements on any public projects in Contra Costa County and if so, what was the overall satisfaction with it (on time, within budget, number of change orders)?***

***Response:***

Yes there are quite a few Project Labor Agreements throughout Contra Costa County and in several areas of our region. It appears that Project Labor Agreements have been used numerous times by the Contra Costa County Board of Supervisors, West Contra Costa Unified School District, Contra Costa Community College District, and Contra Costa Water District among others. Please see below the results of a short survey that was taken by Staff.

**Sanitation/Water/ Wastewater Districts**

- |   |     |
|---|-----|
| • Central Sanitation District                           | No  |
| • Central Marin Sanitation District                     | No  |
| • Contra Costa Water District                           | Yes |
| • Diablo Water District (Treats City of Oakley)         | No  |
| • Ironhouse Sanitation District (Treats City of Oakley) | No  |
| • West County Wastewater District                       | No  |
| • Stege Sanitation District (Treats El Cerrito)         | No  |
| • Crockett Community Services District                  | No  |

**School/College Districts**

- |  |     |
|--|-----|
| • Contra Costa County                              | Yes |
| • Contra Costa Community College District          | Yes |
| • West Contra Costa County Unified School District | Yes |

**Municipalities**

- |                      |               |
|----------------------|---------------|
| • City of Brentwood  | Yes           |
| • City of Concord    | Yes           |
| • City of El Cerrito | No            |
| • City of Hercules   | Yes           |
| • City of Martinez   | Working On It |

- |                        |               |
|------------------------|---------------|
| • City of Oakley       | No            |
| • City of Richmond     | Yes           |
| • City of San Pablo    | Working On It |
| • City of Walnut Creek | No            |

***Q 14: Do non-union workers become union members when there is a Project Labor Agreement? Do they have to pay union dues?***

***Response:***

No, they do not automatically become a union worker nor do they have to become one because they are working on the project. Forcing someone to become a union member is against the law. If they are non union members, they do have to pay dues because they will be dispatched from the union hall.

***Q 15: If there is an increase in negotiated wages after the Project Labor Agreement is signed and the contract awarded, who pays for this?***

***Response:***

The Contractor has to absorb the cost and cannot increase contract price. This is the same as the Contractor having to absorb unanticipated costs for materials, supplies and gasoline, etc.

***Q 16: Is it true that Non-union Contractors on a project covered by a Project Labor Agreement have to pay into the Union Retirement Fund?***

***Response:***

No. The Contractor has to pay these benefits on the employee's behalf into the Union Trust Fund. Under a Project Labor Agreement union and non-union workers are dispatched through the local Union Hall. These benefits are required under the Prevailing Wage Schedule. Both union and non-union employees are all covered by the same vesting rules governing eligibility to receive all employer paid benefits.

***Q 17: If a Non-union Contractor provides their own health and retirement program and pays into it, don't they have to pay twice for these benefits under a Project Labor Agreement?***

***Response:***

No. Under a Project Labor Agreement the Non-union Contractor can continue with his/her own coverage plans for his/her employees at their discretion but the contributions required in the various Master Labor Agreements must be sent directly to the Union Trust Fund.

***Q 18: Without a Project Labor Agreement, are Non-union Contractors required to provide their own health and retirement programs to their employees? If not, how would these employees get health and retirement coverage?***

***Response:***

No. Without a Project Labor Agreement, Non-union Contractors who do not offer retirement and health programs can pay their employees the total prevailing wage in cash which includes amounts for employee benefits such as retirement and health. In this case, non-union employees have the choice of purchasing their own retirement and health care benefits.